



**AGENDA  
FACILITIES COMMITTEE**

**Friday, October 23, 2020 at 10:30 A.M.  
Community Room, 138 S. Brandon Rd., Fallbrook CA 92028**

**In accordance with the current State of Emergency and the Governor's Executive Order N-25-20, of March 12, 2020 and N-33-20 of March 19, 2020, teleconferencing will be used for this meeting. Board members, staff and members of the public will be able to participate by webinar by using the following link:**

**<https://us02web.zoom.us/j/83196427806?pwd=Q1hJcDIKTtB5dIRUOEVBczRhZDI5QT09>**

**Meeting ID: 831 9642 7806 Passcode: 039386**

**Participants will need to download the Zoom app on their mobile device. Members of the public will also be able to participate by telephone using the following dial in information: Dial in #: (310) 372-7549 Passcode 660448.**

Committee Members: Bill Leach and Barbara Mroz


Executive Director: Rachel Mason

Staff Members: Linda Bannerman, Pam Knox and Tracy Rosalee

Property Manager: Roy Moosa

1. Call to Order/Roll Call
2. Public Comments
3. Discussion Items
  - a. Review Proposals for Property Condition Assessments
    - i. AEI Consultants
    - ii. MarxOkubo
4. Update from J. Whalen Assoc. – James Whalen & Roselei Redrick
5. Update from Property Manager
6. Board comments and future agenda items
7. Adjournment

I certify that on October 22, 2020, I posted a copy of the foregoing agenda near the regular meeting place of the Board of Directors of Fallbrook Regional Health District, said time being at least 24 hours in advance of the meeting. The American with Disabilities Act provides that no qualified individual with a disability shall be excluded from participation in or denied the benefits of District business. If you need assistance to participate in this meeting, please contact the District office 24 hours prior to the meeting at 760-731-9187.

  
\_\_\_\_\_  
Board Secretary/Clerk



September 29, 2020

Rachel Mason  
Fallbrook Regional Health District  
138 S. Brandon Road  
Fallbrook, CA 92028

**Re: Proposal for Property Condition Assessment**  
138 S. Brandon Road, Fallbrook, CA 92028

Dear Ms. Mason:

In response to your request for technical reports for the above referenced site, AEI Consultants (AEI) is pleased to present this proposal with our attached Terms and Conditions to complete a Property Condition Assessment. AEI will follow the scopes of work as stated in the American Society for Testing and Materials (ASTM) to complete these technical requirements.

AEI understands the property consists of the following:

Property Description	
Property Type or Use	Office
Purpose of Assessment	Equity: Capital Planning
Date of Construction	1994
Lender Name	NA
Number of Buildings / Stories	1 / 2
Number of Units / Tenants	1 / 1
Gross Building Area / Land Area	4,641 / 0.75
Assessor Parcel Number's (APN)	TBD

**Proposed Fees:**

AEI will complete the below stated scopes of work for the following fees:

Requested	Service(s)	Fee per Service
<input type="checkbox"/>	Property Condition Assessment	\$2,675.00

The total cost of the project will be adjusted based on the above selected services. If all services are selected, the total project will be \$2,675.00.

Unless otherwise requested by the client, the capital reserves table will be based on a 12-year evaluation period. If a different evaluation period is required, please notify AEI at the time of engagement. Changes to the tables after the issuance of the draft report will be billed on a time and material basis at a rate of \$150/hour with a minimum charge of two hours.

It should be noted that if a Property Condition Assessment is ordered, it is the client's responsibility to provide and ensure safe roof access. If roof access cannot be provided, but is still requested by the client, AEI must be informed prior to the execution of this document, as additional fees may apply. If access is not provided, it will be noted as a limitation in our assessment. Pitched roofs will not be accessed but visually assessed to the best of our ability.

Client Initials: \_\_\_\_\_ Date: \_\_\_\_\_



## Schedule:

The project will be completed within 15 working days of receiving the signed Authorization to Proceed. Due to the number of days allotted to complete this investigation, responses from some regulatory agencies may not be received prior to the report due date. As such, the report may contain limitations pertaining to the lack of agency responses to the Freedom of Information Act requests and/or records review.

*Due to the ongoing cases of COVID-19, AEI is taking extra precautions during site visits to limit the interaction between our employees and occupants. For healthcare, senior living, medical office, assisted living and/or multifamily properties, AEI may not be able to view interior features or occupied areas of the subject property. Client should be aware that access limitations may apply. In addition, client should be aware that travel restrictions or lack of site access may affect our quoted turnaround time. Any delays will be communicated with our client as soon as possible.*

*If there have been any cases of COVID-19 reported at any of the properties we have scheduled site visits for, please be sure AEI is made aware. Our goal is the safety of our employees as well as the safety of your occupants. The turnaround time quoted is subject to staff availability and any access restrictions due to COVID-19.*

## Payment Terms and Deliverables:

An invoice for the full contract amount will be issued within 1 to 2 working days after Authorization to Proceed has been received. All invoices are due upon receipt. AEI will deliver one electronic draft copy of each report within the stated schedule above and full receipt of payment. Upon receipt of comments, AEI will deliver one electronic final copy of each report. Hard copies of the reports are available upon request.

In the event that the client cancels the contract, then the client will be responsible for payment of incurred costs up to the cancellation notice date. If the project is placed on hold for longer than a 90-day period, AEI will cancel the project and the client will be responsible for incurred costs up to the hold date. Hold projects may be re-initiated at any time, and additional fees may apply.

Please review our proposal and if you have any questions, please do not hesitate to contact me. To initiate this contract, please sign the Authorization to Proceed, initial and date each page and return to AEI. Thank you for the opportunity to be of service.

Sincerely,

Ciara Schewe  
Business Development Manager  
AEI Consultants  
Phoenix, AZ  
Phone: (480) 815-2142  
Email: cschewe@aeiconsultants.com

Enclosed:      Scope of Work  
                    Terms and Conditions  
                    Authorization to Proceed  
                    Project Information Datasheet



## Scope of Work

**Property Condition Assessment (PCA) ASTM E2018-15:** The general purpose of this Property Condition Assessment (PCA) Report is to assist our client in understanding the condition of the property by providing recommendations for the expected capital repair and replacement costs that the property may reasonably encounter during the projection period covered by this report. Assessments and recommendations are based upon a review of readily available public and private documents pertaining to the property, interviews with knowledgeable people associated with the property, as well as walk-thru survey of the readily accessible site improvements and buildings. The assessment is intended to identify and describe the building and site systems, to assess the overall condition of the systems compared to industry standards, to identify conspicuous deficiencies, and to project a reasonable estimate of life-cycle costs and remaining useful life for site and building systems.

### **Capital Planning**

AEI understands that the special purpose of this assessment is to assist the client in gaining understanding of the overall condition of the subject property for capital planning purposes. As such, the assessments and recommendations within this report may be offered from a generally conservative vantage point in order to address the client's need to weigh various options in developing a capital planning budget.

No assessment can wholly eliminate the uncertainty regarding the presence of physical deficiencies and performances of the building system. According to the ASTM guidelines, a property condition assessment is intended to reduce the risk regarding potential building system and component failure. The ASTM standard recognizes the inherent subjective nature of the assessment regarding such issues as workmanship, quality of care during installation, maintenance of building systems and remaining useful life of the building system. Assessments, analysis and opinions expressed within this report are not representations regarding either the design integrity or the structural soundness of the property or components.

**Property Condition Assessment Scope:** The PCA will be performed in general accordance with ASTM E2018-15 "Standard Guide for Property Condition Assessments: Baseline Property Condition Assessment Process" and is subject to the limitations and scope considerations contained within the Standard. In order to conform to the ASTM Guide, the scope of this Property Condition Assessment will include the following:

- **Site Reconnaissance:** The PCA findings are based on the visual, non-intrusive and non-destructive evaluation of various external and readily accessible internal site and building systems and components as noted during a site walk-through survey conducted by AEI representatives.
  - **Site and Grounds** - Pavement, Parking, Curbs, Loading Docks, Walks, Landscaping, Irrigation, Site Drainage, Exterior Lighting, Walls, Fencing/Railing, Signage and Exterior Amenities.
  - **Structural Systems** - Foundations and Structural Framing of Walls, Columns, Intermediate Floors and Roofs.
  - **Building Envelope** - Roofing Systems, Exterior Finishes, Stairs and Steps, Exterior Doors and Windows.
  - **Interior Building Components** - Interior Finishes of Common Areas and Interior Finishes. Condition of soft goods will not be assessed.
  - **Mechanical, Electrical and Plumbing Systems** – Property-owned Electrical, Heating/Ventilating/Air Conditioning, Plumbing and Conveyance Systems.
  - **Level II Americans with Disabilities Act (ADA) Review** - Discussion of findings and recommendations of "readily achievable" modifications.
  
- **Interviews and Research:** AEI representatives conduct limited research to identify and review available maintenance procedures, available drawings, and other readily available documentation concerning the property. AEI representatives also conduct interviews and make requests of readily available records with individuals and public agencies familiar with the property to gather readily



available property information. A summary of findings will be included in the narrative sections of the report.

- **Report:** The evaluation will cover readily apparent conditions at the property. Upon completion of the site reconnaissance, interviews, and research, AEI produces a summary report. This report includes a discussion of topics related to the property condition and outlines the costs to correct the deficiencies noted. AEI formulates and presents Opinion of Probable Costs recommendations in two tables: Immediate and Deferred Maintenance Costs and a Capital Reserves Schedule. Photographs of property conditions and related documents will be included in the body and the appendixes of this report.
- **Opinions of Costs:** Opinions of costs for immediate repair and /or reserve recommendations provided in the PCA report should only be constructed as preliminary, order of magnitude budgets. The opinions of costs are derived from generally industry accepted sources (i.e. Marshall & Swift), site observations, costs provided in contracts from local suppliers, and AEI cost data base. Actual costs most probably will vary from AEI's opinions of costs depending on such matters as type and design of suggested remedy, quality of materials and installation, manufacturer and type of equipment or system selected, field conditions, whether a physical deficiency is repaired or replaced in whole, phasing of the work, site and location specific factors, quality of contractor, quality of project management exercised, market conditions, unforeseen conditions, and whether competitive pricing is solicited, etc.

A number of immediate and capital reserve costs may be recommended over the evaluation period. These needs will be identified and discussed in the various sections of the PCA report and will be summarized in the tables including an immediate repair cost table and a capital reserves cost schedule. Costs for routine or normal preventive maintenance, or a combination thereof, will not be included. The PCA does not constitute an in-depth budget analysis. The purpose and scope of cost estimating varies between refinance, equity, and capital planning PCA reports. AEI understands that cost estimating, and recommendations may be influenced by client financial goals and industry guidelines. Industry guidelines from ASTM, Fannie Mae, Freddie Mac, and HUD offer varying definitions of the purpose and scope for repair and reserve recommendations. Opinions of cost, the immediacy of our recommendations, and the purpose of the recommendations may vary based on the various definitions and agency guides.

For the purposes of this report, AEI will follow the ASTM E2018-15 Standard Guide for Property Condition Assessments: Baseline Property Condition Assessment Process. The purpose of our report will be for risk consulting. The use and implementation of our assessment and recommendations, as well as the reliance on our cost estimates is the responsibility of our client, based on their discretion in risk management.

**Additional Specialty Consultants:** At this time, no specialty consultants have been requested by the client to assist with the property assessment services. The use of additional specialty consultants typically allows for additional detail and description concerning the building systems, the systems' or system's condition as well as additional detail and description concerning the projected life as well replacement cost.

The use of specialty consultants is not intended to provide a comprehensive or exhaustive study of the systems. The specialty consultants follow the visual assessment protocol outlined in ASTM Standard E2018-15. The specialty evaluations identify the system's existing components, condition and likely recommendations in the area of specialty. The findings and recommendations in the specialty evaluations will be incorporated into AEI's Property Condition Evaluation and appendices. The specialty evaluations do not include invasive or destructive testing unless authorized. Please contact AEI if you would like us to include any specific specialty consultants within this assessment.



## TERMS AND CONDITIONS

1. **Billings, Payment and Credit.** The Client shall pay All Environmental Inc. d/b/a AEI Consultants (AEI) for the services (the "Services") performed in accordance with the prices set forth in the proposal to which these terms and conditions are attached (the "Proposal", and together with these terms and conditions the "Agreement"). Invoices shall be submitted in accordance with the Proposal. Payment of the AEI invoices shall be the primary, absolute and non-contingent obligation of the Client, and shall not be conditioned upon the closing of a loan transaction or any other event. PAYMENT IS DUE UPON RECEIPT. If AEI does not receive payment in full within thirty (30) calendar days of the date of the invoice, the account shall be deemed delinquent. Unpaid delinquent balances shall bear interest from the invoice date at one and one-half percent (1.5%) per month, or at the maximum lawful interest rate (whichever rate is less).

The Client shall be liable to AEI for all costs and expenses of collection of delinquent balances, including reasonable attorney and other fees, and court costs. Time is of the essence with respect to this provision. AEI's non-exercise of any rights or remedies, whether specified herein or as otherwise provided by law, shall not be deemed a waiver of any rights or remedies, nor preclude AEI from the future exercise of such rights or remedies. If a third party is accepting a Proposal as agent for the Client, such third party represents and warrants to AEI that it is legally authorized to bind the Client to the terms of the Agreement and guarantees payment for services.

2. **Right of Entry: Force Majeure.** The Client shall arrange for the right of entry to the subject property ("Site") by AEI, its agents, employees, consultants, contractors and subcontractors, for the purpose of performing all acts as may be reasonably necessary to complete the Services within the agreed scope of work. AEI may require that an authorized, knowledgeable representative of the Site owner be present at the Site as a condition of the performance of the Services and may require that Site personnel operate major building systems and equipment at the time the Services are performed. AEI's ability to comply with the schedule for performance described in the Proposal is contingent upon timely and complete Site access. AEI shall not be responsible for damages or delays in performance caused by force majeure, acts of God, events beyond the control of AEI, or events that could not have been reasonably foreseen and prevented.

3. **Documents/Samples.** All field notes, calculations, estimates and other documents, data or information prepared by or on behalf of AEI in connection with the performance of its Services (collectively, "Documents"), shall remain the sole property of AEI. All Documents prepared by AEI for the Client with respect to any Site shall be used solely for the intended purposes described in the Proposal, and solely with respect to the Site. Unless otherwise agreed, AEI shall retain all Documents for three (3) years following submission of AEI's report to the Client. In its sole discretion and without prior notice to the Client, AEI may dispose of all field samples within thirty (30) calendar days after submission of AEI's report to the Client.

4. **Matters Known to Client.** The Client, itself or through the Site owner, shall provide AEI with any and all information known to the Client, or suspected by the Client, which pertains to: (a) the existence or possible existence at, on, under or in the vicinity of the Site, any hazardous materials, pollutants, lead-based paint, radon or asbestos; (b) any conditions at, on, under or in the vicinity of the Site, which might represent a potential safety hazard or danger to human health or the environment; (c) any permit, manifest, title record, or other record of compliance or non-compliance with any federal, state or local laws, or court or administrative order or decrees; (d) any known or suspected deficiencies or adverse conditions associated with structures or other physical improvements on Site; or (e) any modifications or changes from the original plans and specifications of Site improvements which could affect the recommendations or conclusions reached by AEI in the performance of its Services.

5. **Preliminary Findings.** Preliminary findings (often referred to as "verbals") can be provided to the Client in order to quickly apprise them of preliminary data obtained as a result of AEI's visual observations at the project Site. They are not intended to be exhaustive or conclusive or to substitute for the final written report, as they do not include information obtained from a number of other important and necessary components of the overall assessment. AEI recommends against making any decisions based upon such limited, preliminary, verbal information.

6. **PERFORMANCE STANDARDS. IN PERFORMING THE SERVICES, AEI SHALL EXERCISE THE DEGREE OF SKILL AND CARE NORMALLY EXERCISED BY CONSULTANTS IN THE SAME COMMUNITY PROVIDING THE SAME OR SIMILAR SERVICES FOR PROJECTS OF COMPARABLE SIZE, COMPLEXITY, BUDGET, SCHEDULE AND OTHER CHARACTERISTICS OF THE PROJECT (THE "STANDARD OF CARE"). EXCEPT AS SET FORTH IN THE IMMEDIATELY PRECEDING SENTENCE, AEI MAKES NO WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE SERVICES OR ANY OF ITS ORAL OR WRITTEN REPORTS. CLIENT ACKNOWLEDGES AND AGREES THAT (I) THE SERVICES MAY REQUIRE JUDGMENTS TO BE MADE BY AEI THAT ARE BASED UPON LIMITED DATA RATHER THAN UPON SCIENTIFIC CERTAINITIES; (II) AEI'S APPROACH, RECOMMENDATIONS, AND ASSOCIATED COST ESTIMATES, IF ANY, ARE BASED ON INDUSTRY PRACTICES AND AVERAGES; (III) PROFESSIONAL OPINIONS ARE RENDERED WITH RESPECT TO OBSERVATIONS MADE AND DATA OBTAINED AT THE TIME OF ASSESSMENT; AND (IV) ULTIMATE OUTCOMES COULD BE INCONSISTENT WITH THE CONCLUSIONS, RESULTS AND PROJECTIONS OF AEI. ALL INFORMATION REGARDING OPERATIONS, PLANS, SPECIFICATIONS, CONDITIONS OR OTHER DATA WHICH IS PROVIDED TO AEI BY CLIENT, OWNERS OR THIRD PARTIES (INCLUDING WITHOUT LIMITATION, ANY POINT OF CONTACT AT THE SITE), IS DEEMED BY AEI TO BE CORRECT AND COMPLETE WITHOUT INDEPENDENT VERIFICATION. AEI ASSUMES NO RESPONSIBILITY FOR THE ACCURACY OR COMPLETENESS OF SUCH INFORMATION AND SHALL NOT BE LIABLE IF RELIANCE ON SUCH INFORMATION RESULTS IN INCORRECT CONCLUSIONS OR RESULTS.**

7. **INDEMNIFICATION AND LIMITATION OF LIABILITY.** AEI AGREES TO INDEMNIFY AND HOLD HARMLESS (BUT NOT DEFEND) CLIENT, ITS DIRECTORS, OFFICERS AND EMPLOYEES AGAINST ANY LOSSES, LIABILITY, DAMAGES, COSTS AND EXPENSES TO THE EXTENT CAUSED BY THE NEGLIGENT ACTS, ERRORS, OR OMISSIONS OF AEI, ITS EMPLOYEES, SUBCONTRACTORS OR ANYONE FOR WHOM AEI IS LEGALLY LIABLE, IN THE PERFORMANCE OF SERVICES HEREUNDER. IN NO EVENT SHALL AEI BE LIABLE FOR LATENT OR HIDDEN CONDITIONS, CONDITIONS NOT ACTUALLY OBSERVED BY AEI WITHIN THE LIMITED SCOPE OF WORK, THE POTENTIAL CONSEQUENCES OF OBSERVABLE CONDITIONS, CONDITIONS OF WHICH CLIENT HAD KNOWLEDGE OF AT THE TIME OF THE ASSESSMENT, OR ANY UNAUTHORIZED ASSIGNMENT OF OR RELIANCE UPON THE REPORTS. THE LIABILITY OF AEI, AND THAT OF ITS OFFICERS, DIRECTORS, EMPLOYEES, AGENTS AND SUBCONTRACTORS, TO CLIENT OR TO ANY THIRD PARTY CLAIMING BY OR THROUGH CLIENT, INCLUDING ANY COMPANY AFFILIATED WITH CLIENT, OR ANY OFFICER, DIRECTOR, EMPLOYEE, AGENT, SUBCONTRACTOR, SUCCESSOR, OR ASSIGN OF SUCH PARTIES, FOR ANY LOSSES, WHETHER IN CONTRACT OR TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY), RELATED TO THE SERVICES, THE AGREEMENT OR OTHERWISE, SHALL NOT EXCEED THE AGGREGATE SUM OF TWENTY-FIVE THOUSAND DOLLARS (\$25,000.00). IN NO EVENT SHALL AEI BE LIABLE TO CLIENT FOR ANY EXEMPLARY, PUNITIVE, INDIRECT, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES (INCLUDING LOST PROFITS) ARISING FROM OR IN ANY WAY CONNECTED WITH ITS PERFORMANCE OR FAILURE TO PERFORM UNDER THE AGREEMENT, EVEN IF THE AFFECTED PARTY HAS KNOWLEDGE OF THE POSSIBILITY OF SUCH DAMAGES.

8. **Dispute Resolution.** This Agreement shall be governed by, subject to, and construed in accordance with the laws of the State of California. Any controversy, claim or action arising out of, or related to, this Agreement, the breach thereof, or the coverage of this arbitration provision may be settled by arbitration and will be based on the rules in effect on the date of delivery of demand for arbitration. The arbitrator(s) shall apply California substantive law to the proceedings, except to the extent Federal substantive law would apply to the claim. The arbitrator(s) shall prepare in writing and provide to the parties an award including actual findings and the reasons on which their decision is based. The arbitrator shall not have the power to commit errors of law or legal reasoning, and the award may be vacated or corrected on appeal to a court of competent jurisdiction for any such error. The arbitration of such issues, including the determination of the amount of any damages suffered by either party hereto by reason of the acts or omissions of the other, shall be to the exclusion of any court of law except for enforcement of an arbitrated award. The decision of the arbitrators, or a majority of them, shall be final and binding on both parties and their respective successors and assigns. If the arbitrators determine that a party has initiated a recovery action on a basis inconsistent with the provisions of this Agreement, the initiating party shall, without exception, be assessed all costs incurred by the responding party. Except as identified above, each party shall pay the fees of its own attorneys, and the expenses of its witnesses and all other expenses connected with the presentation of its case. The costs of the arbitration, including the cost of the record or transcripts thereof, if any, administrative fees, fees of the arbitrators, and all other fees and cost shall be borne as determined by the arbitrators.

9. **Reliance and Assignment.** AEI'S WRITTEN REPORT SHALL CONTAIN AEI'S STANDARD RELIANCE LANGUAGE UNLESS ALTERNATE LANGUAGE HAS BEEN PRE-APPROVED BY AEI. IF NO PRE-APPROVED ALTERNATE LANGUAGE EXISTS, THE SERVICES, THE REPORTS AND OTHER RELATED WORK PRODUCT PROVIDED BY AEI MAY BE RELIED UPON BY THE CLIENT, ITS SUCCESSORS AND ASSIGNS WITH RESPECT TO A LOAN SECURED BY THE SITE, AND ANY RATING AGENCY RATING, OR ANY ISSUER OR PURCHASER OF, ANY SECURITY COLLATERALIZED OR OTHERWISE BACKED BY SUCH LOAN. NO OTHER PERSON OR ENTITY MAY RELY ON THE REPORT WITHOUT THE ADVANCE WRITTEN CONSENT OF AEI, AND NO OTHER THIRD PARTY BENEFICIARIES ARE INTENDED. EXCEPT AS DESCRIBED ABOVE, THE CLIENT SHALL NOT ASSIGN THE AGREEMENT, ANY REPORT OR ANY RELATED WORK PRODUCT, WITHOUT THE PRIOR WRITTEN CONSENT OF AEI. ANY UNAUTHORIZED REUSE OR REDISTRIBUTION OF AEI'S WORK PRODUCT OR REPORTS SHALL BE AT THE CLIENT'S AND RECIPIENT'S SOLE RISK, WITHOUT LIABILITY TO AEI. CLIENT WILL HOLD AEI HARMLESS FROM ANY AND ALL LIABILITY, OBLIGATION, COST AND EXPENSE ARISING FROM OR RELATED TO ANY UNAUTHORIZED DISTRIBUTION OR USE BY CLIENT OF AEI'S WORK PRODUCT OR REPORTS. AEI SHALL NOT ASSIGN ITS OBLIGATIONS UNDER THE PROPOSAL. HOWEVER, AEI MAY EMPLOY, BY SUBCONTRACT, SUITABLY TRAINED PERSONS OR ENTITIES ACCEPTABLE TO AEI TO PERFORM THE SERVICES.

10. **Confidentiality.** AEI shall not disclose information regarding the Proposal, the Services or any Documents, except to the Client, employees, consultants, subcontractors, or other persons engaged by AEI to perform the Services, third parties designated by the Client (subject to the reliance limitations described herein), or as required by law. Notwithstanding the terms of this Section, AEI shall comply with all judicial orders, government directives, and laws, regulations and ordinances, regarding the reporting to appropriate public agencies of potential dangers to public health, safety or the environment.

11. **Miscellaneous.** AEI is an independent contractor of Client, and not Client's agent, employee or partner. The Agreement shall be governed by the laws of the State of California and the parties irrevocably consent to the jurisdiction of the courts of the State of California and of the United States District Court for the District of Northern California if a basis for federal jurisdiction exists. In the event a dispute relating to an AEI report results in litigation, and the claimant does not prevail at trial, then the claimant shall pay all costs incurred by AEI in the defense of the claim, including reasonable attorney's fees. Each provision of the Agreement shall be considered separable, and if, for any reason, any provision or provisions herein are determined to be invalid and contrary to any existing or future law, such invalidity shall not affect those portions of this Agreement that are valid. This Agreement constitutes the entire agreement, and supersedes all prior agreements and understandings, both written and oral, between the parties with respect to the Services to be provided pursuant to this Agreement. The provisions of the Agreement may only be modified by a written instrument signed by an authorized representative of each party.

12. **Hazardous Waste and Reporting.** The Client understands and agrees that human health and safety is a priority in implementing any investigation or assessment. AEI and Client agree that the discovery of hazardous materials, suspect hazardous materials or petroleum products, or unexpected conditions may constitute a change in the condition of the job Site mandating a renegotiation of the scope of work or termination of the project and may make it necessary for AEI to take immediate measures to protect human health and safety. AEI agrees to notify Client as soon as practicable if such materials are encountered. Client encourages AEI to take any and all measures, that in AEI's professional opinion, are justified to protect AEI's personnel and the public. Client agrees to waive any claim against AEI and to indemnify, defend and hold harmless AEI from any and all claims arising out of AEI's encountering unanticipated hazardous materials or suspected hazardous materials. Client agrees to compensate AEI for all costs associated with such an event based upon AEI's prevailing fee schedule.

13. **Utilities.** If AEI is expressly engaged to perform soil boring or other invasive testing, AEI shall not be responsible for damages to underground or aboveground utilities, for unmarked or mislabeled utilities or other features, or for damage that occurs to such utilities or features. The Client is responsible for providing information to AEI regarding the location of intra-Site utilities. Client recognizes that the use of exploration equipment may unavoidably affect, alter or damage existing structures, vegetation and terrain at the Site. AEI, including subcontractors, will take reasonable precautions to limit damage. However, Client recognizes that such damage is inherent in the normal course of the contracted scope of work and the cost of the repair for any damages is not part of the contracted services. In the event of damage to the property as a result of such work and specifically stated above, Client will hold harmless, AEI, including subcontractors, for damage caused during the course of the agreed upon scope of work.

14. **Conflict of Interest.** To the best of AEI's knowledge, AEI has no actual, potential or apparent conflict of interest pertaining to this Agreement, except as has been previously disclosed to Client in writing, and AEI covenants and agrees that it shall promptly advise Client of any other actual, potential or apparent conflicts of interest, whether existing as of the execution date of this Agreement or arising in the future, upon discovering the same.



**AUTHORIZATION TO PROCEED**  
**Proposal for Property Condition Assessment**  
138 S. Brandon Road, Fallbrook, CA 92028

**Client Authorization and Billing Information:**

I hereby accept the proposal and authorize AEI to proceed with the scope of work as described herein. AEI reserves the right to suspend or delay work for late payment. Should any project information change, I understand that additional fees may accrue and the due date may be extended. Should the agreement be terminated by either party upon written notice through no fault of the party initiating termination, compensation shall be paid for all services performed and expenses incurred to the date of termination.

**Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**Company:** \_\_\_\_\_

**Address\*:** \_\_\_\_\_

**City, ST Zip:** \_\_\_\_\_

**Email:** \_\_\_\_\_

**Phone:** \_\_\_\_\_

**Fax:** \_\_\_\_\_

**Signature:** \_\_\_\_\_

**Date:** \_\_\_\_\_

*\* Please note that AEI cannot accept a P.O. Box for a report delivery address.*

**Site Contact Information:**

**Name:** \_\_\_\_\_

**Phone Number:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**Email Address:** \_\_\_\_\_

**Company:** \_\_\_\_\_

**Relation to Project:** \_\_\_\_\_

**Billing Options (please select method of payment):**

**Credit Card:** AEI accepts Visa and MasterCard. Payment must be received prior to the release of the report.

**Check:** Check must be received prior to issuance of the report(s).

**Client Responsibilities:** *It is our client's responsibility to provide adequate information for AEI to complete the requested scope of services. This includes sufficient information to identify property boundaries, the arrangement of complete site access and identifying a knowledgeable site contact. If there are known copies of prior reports or other relevant documentation, the client will assist AEI in obtaining them prior to the completion of our assessment.*

Client Initials: \_\_\_\_\_ Date: \_\_\_\_\_



## Additional Information Datasheet

### Loan Specific Information:

Client Reference #: \_\_\_\_\_ Project Name: \_\_\_\_\_

Report Format: \_\_\_\_\_ Purpose of Assessment: \_\_\_\_\_

Loan Term: \_\_\_\_\_ Reserve Term: \_\_\_\_\_

*The below section of this table is for SBA Loans Only*

7a loan OR  504 loan

CDC Name: \_\_\_\_\_ Borrower Name: \_\_\_\_\_

CDC Address: \_\_\_\_\_ CDC Point of Contact: \_\_\_\_\_

CDC City, ST, Zip: \_\_\_\_\_ Contact Phone Number: \_\_\_\_\_

Check here if Entity should also be included on the report cover

### Report Delivery (if same as billing, please leave blank):

Contact Name: \_\_\_\_\_ Address: \_\_\_\_\_

Title: \_\_\_\_\_ City, State, Zip: \_\_\_\_\_

Company Name: \_\_\_\_\_ Phone Number: \_\_\_\_\_

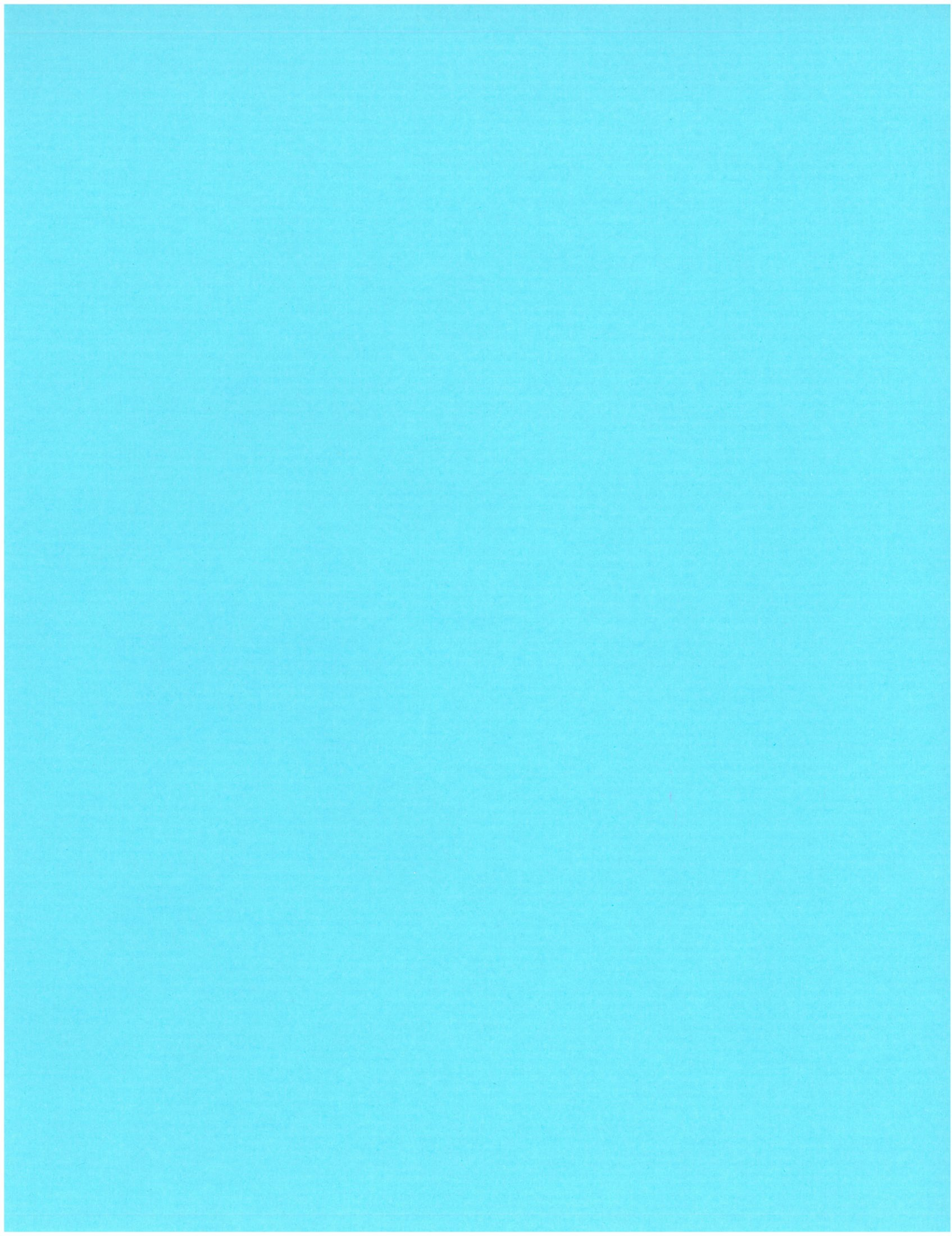
Email Address: \_\_\_\_\_

### Services Offered by AEI include:

- Phase I Environmental Site Assessments
- Environmental Transaction Screens
- Phase II Subsurface Investigations
- Asbestos/Lead Based Paint Surveys
- Vapor Intrusion Studies
- Operation & Maintenance and Moisture Management Plans
- Property Condition Assessments
- Seismic Risk Assessments (PML)
- Energy Audits
- Mold Surveys
- Remediation Services
- Zoning Reports
- ALTA Surveys
- Construction Monitoring
- Radon Surveys
- Construction Consulting Services

Client Initials: \_\_\_\_\_ Date: \_\_\_\_\_







October 7, 2020

Ms. Rachel Mason  
Chief Executive Officer  
Fallbrook Regional Health District  
138 South Brandon Road  
Fallbrook, CA 92028  
Phone: 760.731.9187  
Cell: 909.838.8071  
[rmason@fallbrookhealth.org](mailto:rmason@fallbrookhealth.org)

Dear Ms. Mason:

**RE: 138 SOUTH BRANDON ROAD  
Fallbrook, California  
Proposal – Architectural/Engineering Due Diligence  
Property Condition Assessment  
Marx|Okubo Proposal No. 20-5206**

Marx|Okubo Associates, Inc. ("Marx|Okubo") is pleased to submit to Fallbrook Regional Health District ("Client") a proposal to provide a Property Condition Assessment ("Services") for the above-referenced property. Please note that some modifications have been made to scope descriptions and certain terms and conditions to align with the current COVID-19 pandemic. Our proposed scope of Services and terms and conditions are defined as follows:

**1.0 PROPERTY DESCRIPTION**

According to the information provided to us from the Client via email and telephone on , the project consists of a two-story, approximately 4,641-square foot office building, and related site improvements. The property was constructed around 1999. It is our understanding that the assessment is for a capital repair evaluation of the property.

**2.0 SCOPE OF WORK - BASIC SERVICES**

The Scope of Work for the basic Services to be performed by Marx|Okubo and its subconsultants is as defined below and, subject to possible travel or property access limitations due to the current COVID-19 pandemic situation, generally conforms with and/or exceeds the technical requirements of ASTM E2018-15.

The Client and Marx|Okubo acknowledge and understand that the Services described herein will be based upon one site visit comprising a limited walk-through survey of accessible areas based upon the sample size(s) for property elements as specifically defined herein, or as determined by Marx|Okubo as a reasonable amount of repetitive systems, components or conditions so as to reasonably perform the Services. As noted below, any limitations will be documented. The objective of the walk-through survey is to visually observe the subject property so as to obtain information on material systems and components for purposes of providing a brief description, identifying physical deficiencies to the extent that they are readily visible and readily accessible, identifying an opinion of costs when appropriate, and obtaining information needed to address such issues.

Upon award, the Client will communicate to Marx|Okubo any access limitations and/or restrictions that are in place at the property due to the circumstances of the current COVID-19 pandemic. Such limitations/restrictions may include, but not be limited to, access to certain areas within the interior of the building. Should restrictions prevent our team from accessing any areas, we will discuss with the Client and the property management alternative means of obtaining necessary information such as requesting the property engineering or management staff provide photographs and answer questions. The source(s) of the information will be noted in Marx|Okubo's report.

Marx|Okubo will make reasonable efforts to interview property management and maintenance personnel by video conference or telephone before or after the site visit, to the extent that persons with knowledge of the subject project are available and cooperative. The purpose of the interviews is to augment the walk-through process, further our understanding of the subject property, and assist with the identification of physical deficiencies. Questions will be asked at our discretion in an effort to discover the following information:

- Type and extent of deferred maintenance and deficiencies
- Anticipated costs to remedy known physical deficiencies
- Historical costs incurred for repairs, improvements, recurring replacements, etc.
- Programs for preventative maintenance, repairs, and budgeting for replacement reserves
- Age of systems, components, and equipment when they differ from the age of the property
- Current and recent maintenance practices
- Existence of outstanding citations for building, fire, and zoning code violations, an ADA assessment survey and status of any compliance activity

Records or documents, if made readily available, may be used to specifically identify, or assist in the identification of, physical deficiencies, as well as any preceding or ongoing efforts, or costs to investigate or remediate the physical deficiencies, or a combination thereof. No commentary on the accuracy of such documents will be included.

Marx|Okubo will review the following elements of the subject property:

## **2.1 Site**

**2.1.1 Site observation** services include: topography, storm water drainage, ingress and egress, paving, curbing, parking, loading areas, flatwork, landscaping, irrigation systems, retaining walls, fencing, signage, amenities, and utilities.

**2.1.2 Documentation access and property personnel interview** services include: utility service providers, ALTA survey, and identification of known issues related to items included in site observation services.

**2.1.3 Exclusions:** verification of parking space quantities, operating conditions of any systems, and accessing manholes or utility pits.

## **2.2 Structure**

**2.2.1 Site observation** services include: observation of the building(s) foundation and framing system(s) in limited locations to look for excessive settlement, deflection, movement, or other visible deficiencies that may affect the performance of the foundation or framing systems.

**2.2.2 Documentation access and property personnel interview** services include: geotechnical reports, identifying primary design criteria, description of concealed elements, and identification of known issues related to items included in Section 2.2.1.

**2.2.3 Exclusions:** entering of plenum, crawl, or confined space areas unless deemed safe and appropriate to the scope of the assignment; determination of previous substructure flooding or water penetration unless readily visible or if such information is provided, load or stress calculations; confirmation that structural design is correct; an opinion of the original engineer's design; and an examination of pest infestation problems.

## **2.3 Building Enclosure**

**2.3.1 Site observation** services include: roofing, exterior walls, thermal insulation, glazing systems, exterior doors, soffits and trim, canopies and awnings, balconies, landings, stairs, railings. All reviews will be performed at ground level, utilizing binoculars, or from secure areas such as balconies, roof levels, or elevated plaza areas.

**2.3.2 Documentation review and property personnel interview** services include: description of concealed elements, and identification of known issues related to items included in Section 2.3.1.

**2.3.3 Exclusions:** walking on pitched roofs, any roof areas that appear to be unsafe, or roofs with no built-in access, or determining any roofing design criteria, unless deemed safe and appropriate to the scope of the assignment, or unless otherwise identified as a specialty review in this proposal; reviews utilizing scaffolding, drops or other suspended means, unless otherwise identified as a specialty review in this proposal.

**Exclusions may be superseded if identified as a specialty review in this proposal.**

## **2.4 Interior Improvements**

**2.4.1 Site observation** services include: review of floors, ceilings, and walls and their finishes, interior glazing systems, doors, and cabinetry and millwork for signs of damage resulting from other than normal wear and tear. Locations to be observed include typical common areas including lobbies, corridors, stairs, assembly areas, public restrooms, and tenant interior spaces.

**2.4.2 Documentation review and property personnel interview** services include: description of concealed elements, and identification of known issues related to items included in Section 2.4.1.

**2.4.3 Exclusions:** entering interior spaces within the building(s) where access is prohibited by Property Management or government officials, operating appliances or fixtures; determining or reporting acoustic ratings, and flammability issues/regulations; determining organic growth or mold presence; indoor air quality; and calculation of costs for routine replacement of interior finishes, fixtures, or equipment.

## **2.5 Mechanical, Electrical, Plumbing, and Fire Protection Systems**

- 2.5.1 Site observation** services include: heating, ventilation, air conditioning, plumbing, electrical, and fire protection systems to the extent they are accessible and visible.
- 2.5.2 Documentation review and interview** services include: identifying primary design criteria, description of concealed elements, and identification of known issues related to items included in Section 2.5.1.
- 2.5.3 Exclusions:** observation of flue connections, interiors of chimneys, flues or boiler stacks; tenant-owned or -maintained equipment; process-related equipment; testing or measurements of equipment or air flow; removal of electrical panel and device covers, except if removed by building staff or unless deemed safe and appropriate to the scope of the assignment; EMF issues; electrical testing or operating of any electrical devices; determining NFPA hazard classifications; and entering of plenum or confined space areas, unless deemed safe and appropriate to the scope of the assignment.

**Exclusions may be superseded if identified as a specialty review in this proposal.**

## **2.6 Building Equipment**

- 2.6.1 Site observation** services include: vertical transportation systems, other conveying systems, façade access fixtures and equipment, communication systems, and security systems.
- 2.6.2 Documentation review and property personnel interview** services include: identifying primary design criteria, description of concealed elements, and identification of known issues related to items included in Section 2.6.1.
- 2.6.3 Exclusions:** examining of elevator cables, sheaves, controllers, motors, and inspection tags; entering elevator/escalator pits or shafts; and entering of plenum or confined space areas; testing of building equipment, unless otherwise identified as a specialty review in this proposal.

**Exclusions may be superseded if identified as a specialty review in this proposal.**

## **2.7 Building, Fire, and Zoning Code Review**

**2.7.1 Site observation** services include: means of egress, material building code violations, and design features of major building elements which may significantly affect the occupancy of the building(s) for the intended use.

**2.7.2 Documentation review and property personnel interview** services include: identification of violations and known issues related to compliance with building code requirements.

**2.7.3 Government research** services include: telephone or online research with the planning and zoning, building, and fire authorities having jurisdiction to identify outstanding violations, identify the zoning code, and request a copy of the base building Certificate of Occupancy. Fees related to such information requests, and time and expenses related to out-of-office research, will be presented to the Client for approval as reimbursable expenses in addition to the fees and expenses included in this proposal.

**2.7.4 Exclusions:** identifying, classifying, or testing fire rating of assemblies; determination of the necessity for or the presence of fire areas, fire walls, fire barriers, paths of travel; construction groups or types, or use classifications; strict code compliance, physical visits to the building, zoning, or fire department for information, if not previously approved by the Client.

## **2.8 Accessibility**

**2.8.1 Site observation** services include: an overview for general compliance with Federal accessibility standards under Title III of the Americans with Disabilities Act (ADA) in accordance with the ASTM Standard. Per the ASTM standard, the baseline accessibility review is a visual accessibility survey only which excludes limited measurement and counts. Since the evaluation is limited in scope and is based on representative sampling, non-compliant conditions may exist which will not be identified because of the assessment. A detailed study of the conformance of properties with the requirements of ADA is beyond the scope of a baseline review.

Our review shall include site and building access at a sampling of locations, as well as approximately 10% of stacked floor core common areas, tenant entries, or similar repetitive elements excluding areas where access is prohibited by Property Management or government officials. To perform these services, it is important to receive accurate information about dates of first occupancy of each building.

**2.8.2 Exclusions:** review of commercial tenant interior spaces; review for compliance with current or historical state and local codes; review to the 1991 ADA Standards; review to historical or prior code standards; review for additional accessible design and construction requirements applicable to the property imposed under financial assistance programs or by local or state authorities having jurisdiction; review of prior reports relating to accessibility and identification of known issues related to items included in Section 2.8.1; review of Title I, Employment; Title II, Public Services and Transportation; Title IV, Telecommunication, and Title V, Miscellaneous; determining what is readily achievable; determining what is public accommodation is excluded.

### **3.0 SCOPE OF WORK - SPECIALIST SERVICES (OPTIONS)**

***The following specialty services are subject to modifications and/or limitations due to the current COVID-19 outbreak.***

#### **3.1 Seismic Risk Assessment**

A general review of the seismic design of the building will be completed, including the following Scope of Work:

- Review of available plans, specifications, and geotechnical reports to identify the building(s) foundation system(s), vertical load resisting system(s), and lateral load resisting system(s).
- Review the lateral load carrying capacity of the structure for the purpose of providing an opinion regarding the collapse potential during a 475-year return period (also defined as the seismic hazard level that has a 10% probability of exceedance in a 50-year time period). ASCE41-13 "Seismic Evaluation and Retrofit of Existing Buildings", will be used to assist in this assessment.



- Provide an opinion of the damageability of the structure(s). An estimate of the Scenario Expected Loss (SEL) and Scenario Upper Loss (SUL) will be provided. These estimates will be derived for a probabilistic seismic hazard level defined above. A Level 1 (BS1, SS1, BD1, and G0 (or G1 if a geotechnical investigation is available)) study, per the ASTM E2026-16a document titled "Standard Guide for Seismic Risk Assessment of Buildings" will be performed. Definitions for SEL, SUL, BS, SS, BD, and G are per the ASTM E2026-16a document.
- Review of regional seismicity, as well as identification of any site-specific seismic hazards, such as faults, soil liquefaction, ground failure, and/or tsunami. Review the effects these hazards could have on the project structure.

**3.2 Roofing Specialist Review - Not a part of Scope of Work**

**3.3 Building Envelope Specialist Review**

Review available documentation related to the design and construction of the exterior enclosure to gain understanding of the system. Review available historical documents/reports and interview building personnel related to performance, including history of leaks or other problems. Observe representative sampling of the building enclosure systems including walls and window/wall systems, by direct observation and by the use of binoculars at roof, plaza, and balcony areas.

**3.4 Thermographic Building Enclosure Survey - Not a part of Scope of Work**

**3.5 Fire Protection and Life Safety Specialist Review - Not a part of Scope of Work**

**3.6 Vertical Transportation Specialist Review - Not a part of Scope of Work**

**3.7 Sustainability Services - Not a part of Scope of Work**

**3.8 Building Measurement Confirmation – Not a part of Scope of Work**

**3.9 Detailed Accessibility Review – Not a part of Scope of Work**

### **3.10 CASp Report and Certification**

**3.10.1 Site observation:** A detailed survey will be conducted to include measuring the accessibility features of the areas of public accommodation and evaluating compliance based on applicable standards; only the features related to the 2010 ADA, 1991 ADA as applicable, and the 2016 CBC Chapter 11B will be reviewed. Historical code research is not anticipated or included. The review will include a representative sampling (approximately 10%) of areas, including site parking areas, passenger drop-offs, walkways and public amenities, and tenant common areas.

**3.10.2** The Marx|Okubo representative managing this assignment will be a member of our professional staff who has obtained the CASp accreditation from the state of California:

Sandy Blair, AIA, CASp #177, expires April 5, 2022

Mark J. Hulme, AIA, LEED AP BD+C, APA, CASp #563, expires April 29, 2023

Rick Martin, LEED AP BD+C, CBCP, CASp #631, expires August 28, 2021

Sabrina Blackman, AIA, APA, CASp #722, expires August 26, 2022

Leah Schoelles, CASp #862, expires November 16, 2021

- May Lu, CASp #883, expires April 24, 2022

**3.10.3 A report** will be prepared and will include an itemized list of barriers observed, an opinion of costs for each item, and recommended possible methods of mitigation.

#### **CASp Report and Certificate:**

As part of this CASp review, Marx|Okubo will assist Client in developing a barrier removal general plan and conceptual schedule. Compliance with the aforementioned CRASCA mandates the Client to provide the completion schedule for correction of non-compliant items, which must be attached to the report. Once a report, client schedule, and correction plan are finalized and invoices are paid, Marx|Okubo will provide a CASp certificate in the form of a window sign, provided by the state of California, as a record of inspection, signifying that the property has been inspected by a CASp and that the business has taken proactive steps to comply with accessibility laws.

**3.10.4 Exclusions:** Employee work areas, commercial tenant interior spaces beyond the entry door, signage text size, font, contrast and Braille accuracy, visual alarm mounting and spacing, items requiring specialized equipment and expertise, and/or destructive testing to review, and other items that cannot be determined visually. An opinion of costs to address any deficiencies identified is not included; Drawings, details, and construction documents are not included in this service, nor is a final inspection of the site after any corrections.

It should be understood that while Marx|Okubo can provide assistance in evaluating structural impracticability, technical feasibility, and a conceptual barrier removal plan, whether or not a particular barrier is readily achievable can only be determined by the property owner and legal counsel. This report will not include an assessment of readily achievable barrier removal.

## **4.0 DELIVERABLES**

### **4.1 Property Condition Report**

Marx|Okubo will prepare a property condition report (the "Report") that summarizes the findings from our evaluation of the items in Sections 2.0 and 3.0 above. When deemed appropriate by Marx|Okubo, we will provide an opinion of costs ("Costs") to address the necessary capital expenditures identified during the performance of our Basic and Specialty Services. We will prepare two separate fifteen (15)-year reserve of Costs (as specified by Client); one depicting uninflated costs and one depicting 3% inflation costs. The Costs are intended only as a preliminary budget and not the actual estimated costs to repair as actual costs will vary depending on design, current subcontractor market factors and potential unforeseen conditions associated with the component for which an opinion of cost is provided. Items to be included in the Costs will be greater than \$3,000 per item, with the exception of items determined by Marx|Okubo to be life/safety and accessibility issues, which will be included in the Costs regardless of their value. The costs of routine maintenance items considered part of Operations and Maintenance, such as yearly roofing system maintenance, filter changes, routine cleaning, minor corrective repairs, annual equipment and system inspections and tests, interior finishes and fixtures, appliance replacements, items with costs below the threshold established, etc., are excluded.

The results of our field survey will be submitted following established Marx|Okubo guidelines. Any modifications to the foregoing scopes in 2.0 and 3.0 that resulted due to limitations imposed due to COVID-19 will be communicated to the Client immediately and will be indicated in the report.

#### **4.2 Media and Distribution**

Marx|Okubo will provide electronic copies of the Costs and Report in Portable Document Format (PDF) format. Client will provide distribution requirements for the deliverables.

### **5.0 SCHEDULE**

#### **5.1 Mobilization**

The Marx|Okubo representative managing this assignment will be a member of our professional staff. Marx|Okubo will schedule the on-site observations with the Property Manager, or other representative, as directed by Client to minimize the impact on the tenants. As mentioned previously, Marx|Okubo personnel will follow any identified protocols communicated by the Client and/or the property management. In the absence of such protocols, Marx|Okubo personnel will be committed to practicing good hygiene and safety habits as suggested by the CDC and WHO with specific regard to the COVID-19 pandemic.

#### **5.2 Site Visit**

The site visit by our team will be scheduled following receipt of an executed copy of this Agreement. Client shall identify a point of contact to assist with scheduling the site visit and coordinating access through the property.

It should be understood that Marx|Okubo's ability to travel to and/or access the site may be altered between the time this proposal is approved and the actual date of the site visit may be impacted by local and/or regional municipal directives. Should this be the case, Marx|Okubo will contact the Client immediately to discuss alternatives.

#### **5.3 Draft Deliverables**

A draft Report will be provided within fifteen business days after completion of our site visit

#### 5.4 Final Deliverables

The final Report will be provided within five (5) business days after approval of the draft Report, or within sixty (60) calendar days after submission of a draft Report, whichever occurs first.

#### 6.0 COMPENSATION

The fee schedule as follows includes reimbursable travel expenses:

			Approval Initials
2.0	Basic Services	\$6,700	_____
3.1	Seismic Risk Assessment ( <i>Marx Okubo</i> )	\$3,000	_____
3.3	Building Envelope Specialist Review ( <i>BC&amp;E</i> )	\$3,500	_____
3.9	CASp Report/Certificate ( <i>Marx Okubo</i> )	\$3,500	_____

**The 2.0 Basic Services fee is based on the hiring of the specialists noted in 3.0. Should these specialists not be retained, the Basic Services fee shall increase by \$2,500.**

**6.1** In the event that there are work cessations or extended delays as a result of COVID-19 related issues, Marx|Okubo will be allowed to submit an interim billing for the percentage of work completed as of the date of the cessation. If Marx|Okubo is asked to terminate Services after a site visit has been completed, a minimum of eighty percent (80%) of the total fee will be billed, and will be considered payable by Client. If Marx|Okubo is asked to terminate Services after a site visit has been completed and a draft copy of the Costs and/or an executive summary has been issued, a minimum of ninety percent (90%) of the total fee will be billed, and will be considered payable by Client.

**6.2** Reproduction and/or delivery costs for any construction documents, or fees associated with procuring information from local jurisdictions are not included above. If required, these fees will be invoiced at cost.

**6.3** In the event Marx|Okubo books travel under written or verbal consent from the Client and travel must be adjusted, Marx|Okubo will request reimbursement for all change penalties and costs to adjust travel. If required, these fees will be invoiced at cost.

- 6.4** If the Client desires to modify the scope of this assignment, we would be pleased to negotiate a mutually agreeable fee for increased services. Special conferences or meetings, testing, and/or investigations beyond the Services above-noted are not included in the above fees.
- 6.5** Fee(s) charged to Client for Services are based upon a limited scope of work and a duty to and reliance by the Client only. If the Services were to be relied upon by third parties or used for other purposes, then the fees would be substantially higher.

## **7.0 LIMITATIONS**

- 7.1** The identification of physical deficiencies - defined as conspicuous defects or material deferred maintenance - will be the goal of the Services, but will exclude deficiencies that can be remedied with routine maintenance or minor repairs. Physical review of many systems and building components will be limited as many components will be concealed by finishes. Detailed destructive investigation or analysis can be performed as an additional service pursuant to a separate scope of work developed by the parties.
- 7.2** It is understood that in order to perform the Services, property management or maintenance personnel will be required to provide the means for safe access to all areas of the property, including roofs, utility, and equipment rooms. All Services performed will be based upon the specific day and conditions upon which they were performed and will not be an exhaustive review of the property.
- 7.3** Documentation reviews are limited to the extent that records or documents are readily available and reasonably ascertainable. The project construction plans and specifications which are provided to Marx|Okubo will be utilized in the review of the building's current condition, as well as to identify the civil, architectural, structural, mechanical, and electrical systems. These documents, only to the extent provided, will be used as reference material only for the purpose of checking the field conditions and performing quantity take-offs for deriving opinions of costs. It should be clearly understood that neither this office nor any subconsultants will perform a review of these documents for accuracy, completeness, or conflicts.

- 7.4** The purpose of the Accessibility review (if Client includes such a review in the Scope of Work), will be to reach a reasonable basis for our opinions; however, Marx|Okubo does not warrant or guarantee that the improvements comply with the ADA. There may be additional accessible design and construction requirements applicable to the property imposed under financial assistance programs or by local or state authorities having jurisdiction which we will not address as part of basic Services. Marx|Okubo would be pleased to work with Client to modify the scope and fee to perform more in-depth or program-specific review.

### **STANDARD TERMS AND CONDITIONS**

These Standard Terms and Conditions shall continue in full force and effect during the term of this Agreement, as well as surviving the completion or termination of Marx|Okubo's Services as described herewith. In the event of a conflict between these Standard Terms and Conditions and the proposal, these Standard Terms and Conditions shall control and take precedence over any conflicting term or condition contained herein, unless specifically modified and agreed to by the parties in writing.

#### **Proposals**

Proposals expire sixty (60) days after submission to the Client unless a different expiration limit is set forth herein. Marx|Okubo reserves the right to modify or withdraw a proposal at any time prior to written acceptance by the Client. Upon written acceptance by the Client, the proposal, together with these Standard Terms and Conditions, shall become a binding agreement (the "Agreement") enforceable by either party at law or in equity.

#### **Compliance with Laws/Performance Standards**

Marx|Okubo Associates, Inc. ("Marx|Okubo"), in the performance of its Services will comply with applicable known Federal and State laws, ordinances, and licensing and certification requirements pertaining to the Services. Marx|Okubo will perform its Services for the Client in accordance with the professional standards and degree of care and skill ordinarily exercised under similar circumstances by those performing similar services. No other warranty or representation, express or implied, is made with respect to Marx|Okubo's performance, unless expressly set forth and agreed to in writing by the parties. Marx|Okubo is responsible solely for the Services it provides to the Client and neither guarantees construction or repair costs, any construction schedules for the project or any other matter not part of its Services as may be applicable. Notwithstanding anything to the contrary contained herein, the parties acknowledge that due to the COVID 19 outbreak, that federal, state and local jurisdictions are enacting or likely to enact restrictions, ordinances and potentially laws that may not be fully clear or unknown to the parties at the time of this Agreement.

The parties agree to communicate as to how said may impact the performance of the services and that both must mutually agree on interpretations prior to commencement of, continuation of, work stoppages and restart of services required under this Agreement.

Marx|Okubo assumes no responsibility or liability for acts or omissions of the Client, the architect or engineer of record, the general contractor, property manager or any other third party not under its direct control. Marx|Okubo's Services are for the benefit of the Client only, and neither the architect nor engineer of record, the general contractor, property manager nor any other third party shall have a claim against Marx|Okubo as a third-party beneficiary or otherwise.

Marx|Okubo shall be entitled to fully rely upon the accuracy and completeness of any investigations, test results or other information supplied by the Client, the architect or engineer of Record, the Contractor, property manager or other consultants involved in the project, and upon information available from generally accepted and reputable sources, without independent verification. Any conclusions by Marx|Okubo based on test data or test results are limited to the specific conditions for which the tests were performed.

Marx|Okubo shall not have, and assumes no responsibility or liability for, control over or charge of construction means, methods, techniques, sequences, or procedures. If applicable to the Services performed, Marx|Okubo assumes no responsibility for the Contractor's schedule(s) or the Contractor's failure to construct or carry out the project in accordance with the drawings, specifications, or other contract documents. Marx|Okubo shall not have and assumes no responsibility or liability for control over or charge of acts or omissions of the Architect or Engineer of Record, the Contractor, Subcontractors or their agents or employees, or of any other persons for whom Marx|Okubo is not directly responsible.

Marx|Okubo assumes no responsibility or liability for Services it provides where inadequate documentation or other information has been provided, or documentation or information has not been provided in a timely manner. Marx|Okubo shall not be required to sign any documents, no matter by who requested, that would result in Marx|Okubo having to certify, guarantee or warrant the existence of conditions whose existence Marx|Okubo cannot verify or ascertain. The Client also agrees not to make resolution of any dispute with Marx|Okubo or payment of any amount due to Marx|Okubo in any way contingent upon Marx|Okubo's signing any such certification.



### **Conflict of Interest**

Marx|Okubo reserves the right to withdraw from representing the Client if, in its opinion, a conflict of interest has occurred or may occur in the future. The Client acknowledges that on a project where Marx|Okubo is representing multiple clients; information may be received from one or more of such clients. Marx|Okubo may share such information among the multiple clients unless a client designates in writing the information as confidential. In the event information is designated as confidential, Marx|Okubo will advise the other clients that a confidence exists, but will not disclose such confidential information; provided that Marx|Okubo shall have the right to disclose confidential information if, in its judgment, the information concerns health or safety issues or risk to persons or property.

### **Confidentiality**

All information received by either party (including, without limitation, information concerning the nature of either party's organization, business, products, services, market research, assets, revenues, and any plans or materials received for in the performance of Services or prepared for Client pursuant to, or in connection with, the terms of this Agreement) shall be kept confidential by both parties and their representatives and shall not be used in any manner except in connection with the Services under this Agreement; provided, however, that either party may disclose such information to its employees, subcontractors, officers, directors or agents so long as such persons agree to maintain the confidentiality of such information in accordance with this paragraph. The foregoing confidentiality provisions shall not apply to such portions of the information received that are generally available to the public. The obligations under this paragraph shall survive the expiration or termination of this Agreement.

### **Ownership and Use of Documents**

All letters, reports, drawings, specifications, test data, test results and notes prepared or created by Marx|Okubo are and shall remain the property of Marx|Okubo, and Marx|Okubo shall retain all ownership rights, including copyright and other intellectual property rights, in such documents. Client shall not permit these documents, or any parts or content thereof, to be reproduced in any advertisements, brochures, or sales materials, or to otherwise be disseminated or made available to the public, without the written permission of Marx|Okubo. Client shall not use any of these documents, or any parts or contents thereof, for any purpose other than the purpose for which they were prepared, nor may they be used for any purpose by third parties, without the written permission of Marx|Okubo.

### **Condominium Limitations**

Without limiting the generality of the foregoing, Client shall not permit any of the aforementioned documents or information provided in any of the aforementioned documents, to be used in any sales or other materials (including without limitation documents creating or governing any condominium or other common interest community to be formed or now existing, or to any owners association for any such condominium or other common interest community) given or made available to prospective or actual condominium purchasers or lessees or to any owners association, or any of their owners, officers, employees, contractors or agents. If Client, Owner, Developer, or any architect, any contractor or any subcontractor with respect to the Project is required by applicable law to file or provide to any person or entity any of the aforementioned documents, any of Marx|Okubo's work product, any information or documents contained therein, or any other information prepared or created by Marx|Okubo (each, an item of "**Protected Material**"), or otherwise make any item of Protected Material publicly available, then Client shall: (a) as soon as possible, but in all cases prior to such filing, provision or disclosure, deliver written notice to Marx|Okubo identifying with reasonably specificity such items of Protected Material work that are to be filed, provided or disclosed, the anticipated date of such filing, provision or disclosure, and to whom (or with whom) such item of Protected Material is to be filed, provided or disclosed, and (b) cause each said item of Protected Material to contain the following notice, prominently displayed on the first page thereof:

**No letter, report, drawing, specification, test data, test result or note prepared or created by Marx|Okubo, nor any of Marx|Okubo's work product, nor any information contained within the foregoing, nor any other information or document prepared or created by Marx|Okubo (each, an item of "Protected Material") shall be disclosed by Fallbrook Regional Health District or any other person or entity (each, a "Person") who receives any item of Protected Material to any other Person except as required by law, and under no event may item of Protected Material be utilized in any fashion related to any condominium, including without limitation, conversion of any property to a condominium, or by purchasers or lessees of any condominium unit or other property included within a condominium, or by any owners association. If applicable law requires disclosure of any item of Protected Material, then such item shall bear the following notice: "THESE MATERIALS ARE INTENDED FOR USE AND RELIANCE ONLY BY FALLBROOK REGIONAL HEALTH DISTRICT ARE BEING PROVIDED TO THIRD PARTIES ONLY AS MAY BE REQUIRED BY LAW. THE OBLIGATIONS OF MARX|OKUBO ASSOCIATES, INC. ARE TO FALLBROOK REGIONAL HEALTH DISTRICT ONLY AND NO PARTY OTHER THAN FALLBROOK REGIONAL HEALTH DISTRICT SHALL BE ENTITLED TO RELY ON THE COMPLETENESS OR ACCURACY OF SUCH MATERIALS.**

**ANY RELIANCE BY A PARTY OTHER THAN FALLBROOK REGIONAL HEALTH DISTRICT SHALL CONCLUSIVELY BE DEEMED UNREASONABLE IN THE ABSENCE OF A WRITING TO THE CONTRARY SIGNED AND DELIVERED TO SUCH PARTY BY AN AUTHORIZED REPRESENTATIVE OF MARX|OKUBO ASSOCIATES, INC."**

Notwithstanding anything to the contrary contained herein, Client shall indemnify, defend and hold harmless Marx|Okubo from any liabilities, claims, damages and costs (including reasonable attorney's fees) that result from the use of or dissemination of any item of Protected Material or the disclosure to or alleged reliance thereon by any third party, regardless of the nature of any claims asserted.

**Rights of Third Parties**

Except as may otherwise be provided for in writing between the parties to the contrary, nothing express or implied in this Agreement is intended or shall be construed to confer upon or give any person or entity, other than the parties hereto, any rights, reliance or remedies under or by reason of this Agreement.

**Time Charges**

For Services in which the fee is time and material based, the time charges will be accrued on an hourly basis unless Marx|Okubo and the Client agree in writing to a different basis. Minimum time charges for personnel at a project site are eight (8) hours per day unless time can be utilized on another job. There is no increase in rates for overtime. Except as provided below, there is no charge for out-of-town travel time for Marx|Okubo staff outside of a normal eight-hour workday, unless properly billable time is spent on the project. Technicians may charge up to two (2) hours on weekdays for out-of-town travel outside of a normal eight-hour workday, or up to four (4) hours per day for out-of-town travel on weekends.

Marx|Okubo reserves its right to increase its hourly billing rates annually, after written notification to the Client.

**Independent Consultants and Subcontracted Services**

In providing its Services, Marx|Okubo may retain outside consultants as independent contractors or may subcontract a portion of the Services. Such Services are billed at cost plus 10%.

**Safety**

Site observation visits will be performed by Marx|Okubo only under conditions deemed safe by Marx|Okubo personnel. The Client will be charged for any costs incurred as a result of safety or security measures required by hazardous job conditions.

Marx|Okubo shall not have, and assumes no responsibility or liability for, the safety of persons or property or for safety precautions or safety procedures required or instituted in connection with the project, as these are solely the responsibility of others.

### **Special Inspections, Assessments and Analyses**

Marx|Okubo is not licensed as an inspector, assessor, or analyst of wood-destroying organisms, wood-decaying fungi, fungus, dry rot, structural pest control, pest, toxic mold, or other specialties and will not perform any services governed by licensing statutes relating to such inspections, assessments or analyses. To the extent Marx|Okubo makes observations or recommendations related to the presence of wood-destroying organisms or pests, it is doing so solely for the purpose of making recommendations for the repair of the damage or assessing the impact of the damage on the monetary value of the subject property. Client should retain a licensed specialty inspector, assessor, or analyst to perform any and all inspections, assessments or analyses governed by state licensing statutes.

### **Subpoenas, Court Orders and Judicial Process**

The Client agrees to pay Time Charges, attorneys' fees and other expenses incurred by Marx|Okubo in responding to subpoenas, court orders and judicial process issued by or on behalf of third parties that relate in any way to its Services or as a result of client's actions, provided Marx|Okubo is not a party to said action. Time Charges will be based on an amount equal to two times the billing rates in effect at the time of the response.

### **Insurance**

At all times during the term of this Agreement, Marx|Okubo shall comply with the insurance requirements described below and shall furnish Client with a certificate of insurance prior to commencement of Services as evidence of the following insurance obtained at Marx|Okubo's expense, applicable to all Services performed by Marx|Okubo. Coverage shall be written with companies licensed to operate in the State of project location with a Best's rating of "A VIII" or better and shall provide for the coverages and minimum amounts described below:

(a) Worker's Compensation Insurance as required by statute and Employer's Liability with a limit not less than \$1,000,000 per occurrence.

(b) Commercial General Liability including Blanket Contractual Liability, Employees as Additional Insured, Completed Operations-Products Liability, Personal Injury Liability endorsement, Property Damage Liability including Broad Form Property Damage endorsement. The minimum limits of liability shall be:

\$1,000,000 Combined Single Limit per Occurrence Bodily Injury and Property Damage

\$2,000,000 General Aggregate Limit.

\$2,000,000 Products and Completed Operations Aggregate.

(c) Excess Umbrella Liability of \$10,000,000 per occurrence and aggregate.

(d) Commercial Automobile Liability Insurance applicable to any owned, non-owned or hired vehicle in limits not less than \$1,000,000 per occurrence Combined Single Limit of Bodily Injury and Property Damage Liability.

(e) Professional Liability coverage of \$2,000,000 per claim and \$5,000,000 aggregate.

Marx|Okubo shall continue to comply with the insurance requirements described herein and upon written request provide such evidence of coverage to Client for five (5) years after the expiration or earlier termination of this Agreement.

(f) Client, and its lenders or other sources of financing or funding, as requested by Client, shall be included as additional insureds under the Commercial General Liability and Commercial Automobile Liability policies carried by Marx|Okubo, and Client shall be provided with evidence of the endorsements to the policies confirming such inclusion of additional insureds.

Marx|Okubo shall provide thirty (30) days prior written notice to Client in the event of any cancellation of any policy or coverage described herein.

### **Billing Terms**

The firm or individual engaging Marx|Okubo is responsible for payment of all fees and charges unless (1) Marx|Okubo is notified in writing, prior to the time it commences its Services, that the engagement is on behalf of another party; and (2) Marx|Okubo agrees to accept payment from the other party. Unless expressly agreed otherwise, accumulated charges will be billed in approximately monthly intervals. State and local sales, use and any other applicable taxes will be included in the billing.

Payment in full is due within thirty (30) days of the date of an invoice. Invoices that remain unpaid thirty (30) days from the invoice date will be considered past due and will be subject to an interest charge at the rate of 1-1/2% per month (or at a lower maximum legal rate). Client further agrees to pay all attorneys' fees and other collection costs incurred as a result of non-payment.

### **Suspension of Services**

If the Client fails to make payment when due for Services and expenses, Marx|Okubo may, upon seven (7) days written notice, suspend performance of its Services. Unless payment in full is received by Marx|Okubo within seven (7) days of the date of such notice, the suspension shall take effect without further notice to the Client. In the event of a suspension, Marx|Okubo shall have no liability to the Client for any delay or damage incurred by the Client because of such suspension of its Services.

### **Changed Conditions**

If during the term of this Agreement, circumstances that were not originally contemplated by or known to Marx|Okubo are revealed, to the extent that they affect the scope of the Services, compensation, schedule, allocation of risks or other material terms of this Agreement, Marx|Okubo may call for renegotiation of appropriate portions of this Agreement. Marx|Okubo shall notify the Client of the changed conditions necessitating renegotiation, and Marx|Okubo and Client shall promptly and in good faith enter into renegotiation of this Agreement to address the changed conditions. If terms cannot be agreed to, the parties agree that either party has the absolute right to terminate this Agreement, in accordance with the Termination provision hereof.

### **Termination of Services**

If the Client fails to make payment within thirty (30) days after payment is due, then Marx|Okubo may, upon seven (7) days written notice to the Client, stop all services and give notice of its intention to terminate its Services. Unless payment for services and expenses due is received in full within seven (7) days of the date of such notice, Marx|Okubo may terminate all Services and recover from the Client payment for all services rendered to the date of the termination and any other expenses incurred as a result of the termination.

### **Dispute Resolution**

Marx|Okubo and the Client are committed to working with each other throughout the project and agree to communicate regularly with each other at all times so as to avoid or minimize disputes or disagreements. In the event of any dispute, claim, question, or disagreement arising from or relating to this Agreement or the breach thereof, the parties agree to use their best efforts to settle the dispute, claim, question, or disagreement. To this end, the parties agree to consult and negotiate with each other in good faith and recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to both parties. If the parties cannot reach a solution within forty-five (45) days, then upon notice by either party to the other, the parties agree to first try in good faith to settle the dispute by mediation administered by the American Arbitration Association under its Commercial Mediation Procedures, before resorting to arbitration.

If the parties are still unable to settle their dispute through mediation, then the parties agree that the dispute, claim, question, or difference shall be settled by arbitration administered by the American Arbitration Association in accordance with the provisions of its Commercial Arbitration Rules.

The substantially prevailing party in any arbitration, or other final binding dispute proceeding upon which the parties may agree, shall be entitled to recover from the other party all costs and expenses incurred by that party in participating in the arbitration, including reasonable attorneys' fees. The award of the arbitrator shall be final and binding upon the parties and any court having jurisdiction thereof may enter judgment upon it in accordance with applicable law.

### **Statutes of Repose and Limitation**

All legal actions between the parties to this Agreement, including the Dispute Resolution described herewith, shall accrue and any applicable statutes of repose or limitation shall begin to run not later than the completion of Marx|Okubo's Services as described in the Agreement. Notwithstanding anything to the contrary contained herein, in no event shall any statute of repose or limitation begin to run later than the date that Marx|Okubo's Services are completed or terminated.

### **Governing Law**

The proposal, these Standard Terms and Conditions, and any agreement reached between Marx|Okubo and the Client shall be governed by the laws of the state in which the Project is located.

### **Indemnification**

To the fullest extent permitted by law, Client shall defend, indemnify, and hold Marx|Okubo harmless from and against any and all claims, damages, losses and expenses (including reasonable attorneys' fees) arising out of the Services performed under this Agreement and/or the project that is the subject of this Agreement. In the event the Services to be performed under this Agreement fall within the scope of a statute or court ruling that limits the enforcement of contractual indemnity provisions, Client's obligation to indemnify Marx|Okubo shall be enforceable to the extent allowed under the statute or court ruling. Where a statute or court ruling limits the enforceability of indemnity provisions applicable to indemnities' negligence, Client's obligation to indemnify Marx|Okubo shall not include an obligation to indemnify Marx|Okubo against claims, damages, losses, and expenses arising out of Marx|Okubo's negligence, and in the event of the concurrent negligence of Marx|Okubo and Client, or its agents or employees, Client's indemnity obligation shall be limited to Client's and its agents' or employees' negligence. Client agrees it will not assert its industrial insurance immunity to the extent such assertion would be inconsistent with Marx|Okubo's right to indemnification from Client under this Agreement.

Regardless of any legal limitations on the enforceability of indemnity provisions, Client shall be obligated to defend Marx|Okubo as provided in this paragraph.

The following indemnity clause applies only to indemnity for claims arising under Marx|Okubo's insurances other than Professional Liability insurance. Nothing in this paragraph shall apply to indemnification of professional claims which are addressed in the paragraph below. To the fullest extent permitted by law for claims arising under Marx|Okubo's insurances other than Professional Liability, Marx|Okubo agrees to defend, indemnify and hold the Client harmless from and against liabilities, claims, damages and costs (including reasonable attorney's fees) to the extent caused by Marx|Okubo's gross negligence or willful misconduct in the performance of the Services under this Agreement, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself). In no event shall the indemnification obligation extend beyond the date when the institution of legal or equitable proceedings for the claim would be barred by an applicable statute of repose or statute of limitations. Nothing in this section shall apply to indemnification of professional negligence claims which are addressed in the following paragraph of this Agreement.

The following indemnity clause applies only to claims arising under Marx|Okubo's Professional Liability insurance. Nothing in this paragraph shall apply to indemnification for claims under Marx|Okubo's other insurance policies, such as Commercial General Liability and Automobile claims, which are addressed in the paragraph above of this Agreement. To the fullest extent permitted by law, Marx|Okubo agrees to indemnify and hold the Client harmless from and against liabilities, damages and costs (including reasonable attorney's fees) to the extent caused by the gross negligence or willful misconduct of Marx|Okubo in the performance of the Services under this Agreement. In no event shall the indemnification obligation extend beyond the date when the institution of legal or equitable proceedings for professional negligence would be barred by an applicable statute of repose or statute of limitations. This indemnification expressly excludes the duty of Marx|Okubo's Professional Liability Insurance to defend the Client. However, the absence of the duty to defend shall not preclude the Client from seeking its reasonable attorneys' fees as parts of its damages where and to the extent such fees are caused by Marx|Okubo's negligence and included as an insurable award.

The parties agree that these Indemnification provisions were mutually negotiated.

**LIMITATION OF LIABILITY**

NEITHER PARTY SHALL FOR ANY REASON BE LIABLE TO THE OTHER FOR ANY SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES, INCLUDING LOSS OF USE AND LOSS OF PROFIT, OR FOR PUNITIVE OR EXEMPLARY DAMAGES, AND BOTH PARTIES AGREE THAT ANY RIGHT EITHER MAY HAVE TO SEEK RECOVERY OF SUCH DAMAGES IS EXPRESSLY WAIVED.



THE CLIENT AND MARX|OKUBO HAVE DISCUSSED THE RISKS, REWARDS AND BENEFITS OF THE PROJECT AND OF MARX|OKUBO'S SERVICES, AS WELL AS MARX|OKUBO'S FEE FOR ITS SERVICES. THE CLIENT ACKNOWLEDGES AND AGREES THAT THE RISKS HAVE BEEN ALLOCATED IN SUCH A WAY THAT, TO THE FULLEST EXTENT PERMITTED BY LAW, MARX|OKUBO'S TOTAL LIABILITY TO THE CLIENT FOR ANY AND ALL INJURIES, CLAIMS, LOSSES, EXPENSES, DAMAGES OR CLAIMS EXPENSES ARISING OUT OF ITS SERVICES FROM ANY CAUSE OR CAUSES INCLUDING, BUT NOT LIMITED TO, PROFESSIONAL NEGLIGENCE, ERRORS, OR OMISSIONS, STRICT LIABILITY, BREACH OF CONTRACT, AND BREACH OF WARRANTY SHALL NOT EXCEED THE TOTAL AMOUNT OF \$50,000.00, OR THE AMOUNT OF MARX|OKUBO'S FEE, WHICHEVER IS GREATER.

THE CLIENT FURTHER AGREES THAT ANY AND ALL LIMITATIONS OF MARX|OKUBO'S LIABILITY AND INDEMNIFICATIONS BY CLIENT TO MARX|OKUBO SHALL INCLUDE AND EXTEND TO THOSE INDIVIDUALS AND ENTITIES MARX|OKUBO RETAINS FOR PERFORMANCE OF THE SERVICES UNDER THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO MARX|OKUBO'S OFFICERS, PARTNERS, AND EMPLOYEES AND THEIR HEIRS AND ASSIGNS, AS WELL AS MARX|OKUBO'S SUBCONSULTANTS AND THEIR OFFICERS, EMPLOYEES, HEIRS AND ASSIGNS.

CLIENT UNDERSTANDS AND AGREES THAT THE SERVICES IS LIMITED IN SCOPE FOR THE PURPOSE OF PROVIDING AN OVERVIEW OF THE PROJECT. CLIENT FURTHER AGREES AND RECOGNIZES THAT THE SERVICES IN NO WAY SUGGESTS THAT EVERY ASPECT OF THE PROJECT WILL BE REVIEWED OR THAT ALL SYSTEMS WILL BE TESTED. CLIENT ALSO ACKNOWLEDGES THAT ONLY LIMITED AND PROVISIONAL INFORMATION CAN BE GATHERED WITHOUT EXTENSIVE AND OFTEN PROHIBITIVELY COSTLY AND DISRUPTIVE DESTRUCTION AND INVASIVE TESTING. INFORMATION CONCERNING CONDITIONS IDENTIFIED IN THE SERVICES WILL BE OBTAINED FROM LIMITED SAMPLING AND THE GATHERING OF ANECDOTAL INFORMATION, AND NOT ALL PROJECT CONDITIONS WILL BE SURVEYED. THE CHOICES AND ASSUMPTIONS THAT MARX|OKUBO WILL MAKE IN PERFORMING THE ASSESSMENT WILL BE BASED ON INFORMATION CONTAINED IN THE DOCUMENTS PROVIDED AND VERBAL STATEMENTS MADE TO MARX|OKUBO, THE ACCURACY OF WHICH MAY NOT BE READILY VERIFIABLE. CLIENT AGREES AND UNDERSTANDS THAT MARX|OKUBO CAN NOT AND WILL NOT MAKE GUARANTEES OR WARRANTIES WHATSOEVER CONCERNING THE QUALITY, DURABILITY OR PERFORMANCE OF THE PROJECT OR OF ANY OF THE COMPONENTS, FEATURES OR SYSTEMS OF THE PROJECT. MARX|OKUBO DOES NOT ASSUME ANY PART OF THE DESIGN RESPONSIBILITY FOR THE PROJECT, AND THE PRICING FOR THE SERVICES REFLECTS THAT FACT. THE USE OF MARX|OKUBO'S REPORT AND THE INFORMATION IN THE SERVICES WILL BE STRICTLY LIMITED TO THE PARTICULAR CLIENT BY WHOM MARX|OKUBO'S REPORT IS COMMISSIONED AND TO WHOM MARX|OKUBO'S REPORT IS ADDRESSED, AND CLIENT ACKNOWLEDGES THAT THE SERVICES CAN AND WILL BE USED ONLY AS ONE OF MANY SOURCES OF INFORMATION CONCERNING THE PROJECT.

Ms. Rachel Mason  
138 SOUTH BRANDON ROAD  
Marx|Okubo Proposal No. 20-5206  
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October 7, 2020

CLIENT ACKNOWLEDGES THAT IT IS MAKING COST/BENEFIT CHOICES CONCERNING THE SCOPE OF THE SERVICES, THAT MORE INFORMATION WOULD BE PROVIDED AT A GREATER COST, AND THAT CLIENT HAS GIVEN ITS INFORMED CONSENT TO NOT INCURRING THAT COST IN RETURN FOR THAT ADDED BENEFIT.

Please indicate your acceptance of the above proposal and the description herein of Services, terms, and fees by having an authorized representative of your firm execute one copy and return it to us prior to the expiration date herein. If we are given oral or written notification to proceed without first receiving a signed copy of this agreement, it will be mutually understood that both parties will, nonetheless, be contractually bound by this agreement, even in the absence of written acceptance by you. In any event, a signed copy of this proposal is required to be returned to Marx|Okubo prior to the issuance of our written report.

Thank you for this opportunity to present our proposal for the 138 South Brandon Road project in Fallbrook, California. We welcome the opportunity to work with your organization.

Should you have any questions, please do not hesitate to contact the undersigned.

Sincerely,

**MARX|OKUBO ASSOCIATES, INC.**

Mark A. Graves, AIA  
Vice President  
mark\_graves@marxokubo.com

tjh  
\\205206Proposal20201007x138SouthBrandonRoad.docx  
By email [rmason@fallbrookhealth.org](mailto:rmason@fallbrookhealth.org)

Ms. Rachel Mason  
138 SOUTH BRANDON ROAD  
Marx|Okubo Proposal No. 20-5206  
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October 7, 2020

Accepted By: \_\_\_\_\_  
(Signature)

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_