

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

507



FROM: Economic Development Agency

SUBMITTAL DATE:
May 2, 2013

SUBJECT: Riverside County Regional Medical Center Transformer Upgrade – Approval of Construction Agreement

RECOMMENDED MOTION: That the Board of Supervisors:

1. Grant the low bidder, NEC Electric Inc., relief from its bid without penalty due to clerical error;
2. Waive any minor irregularities in the bid and award the construction agreement between the County of Riverside and Austin Commercial LP of Los Angeles, California, in the amount of \$469,666 and authorize the Chairman of the Board to execute the agreement on behalf of the county;
3. Authorize the Assistant County Executive Officer/EDA to administer the agreement in accordance with applicable Board policies; and

(Continued)

FISCAL PROCEDURES APPROVED
PAUL ANGULO, CPA, AUDITOR-CONTROLLER
BY: Lisette Rose 5/1/13

[Signature]

Robert Field
Assistant County Executive Officer/EDA

| | | | | |
|-----------------------|-------------------------------|------------|-------------------------|---------|
| FINANCIAL DATA | Current F.Y. Total Cost: | \$ 375,000 | In Current Year Budget: | Yes |
| | Current F.Y. Net County Cost: | \$ 0 | Budget Adjustment: | No |
| | Annual Net County Cost: | \$ 0 | For Fiscal Year: | 2012/13 |

COMPANION ITEM ON BOARD AGENDA: No

SOURCE OF FUNDS: Enterprise Funds

Positions To Be Deleted Per A-30
Requires 4/5 Vote

C.E.O. RECOMMENDATION:

APPROVE

BY: *[Signature]*
Jennifer L. Sargent

County Executive Office Signature

Dept'l Recomm.: Consent Policy
Per Exec. Ofc.: Consent Policy

RECEIVED RIVERSIDE COUNTY
MAY 10 2013

Prev. Agn. Ref.: 3.29 of 11/06/12; 3.14 of 10/06/09

District: 5/5

Agenda Number:

3-15

REVIEWED BY: *[Signature]* APPROVED BY: *[Signature]* DATE: 4/25/13
 Douglas Bagley, Hospital Director
 Christopher Hans, Regional Medical Center
 Departmental Concurrence

RECOMMENDED MOTION: (Continued)

4. Approve a \$165,000 adjustment to the project budget.

BACKGROUND:

On November 6, 2012, the Board of Supervisors approved the plans and specifications, approved a total project budget, and authorized the Assistant County Executive Officer/EDA to submit the contract for award to the lowest responsible bidder to the Chairman of the Board for execution provided that if any of the following occur, the award will be submitted to the Board for action: there is a bid protest, the lowest bid exceeds the estimated construction budget, the low bidder is disqualified, two or more bids are the same and are the lowest, or a bidder requests relief from its bid due to an error for the Riverside County Regional Medical Center (RCRMC) Transformer Upgrade project. On November 27, 2012, 19 contractors attended a mandatory job walk for the RCRMC Transformer Upgrade project. On December 10, 2012, a bid opening was conducted and NEC Electric, Inc. (NEC) was determined to be the lowest responsive and responsible bidder in the amount of \$429,800.

On December 12, 2012, the County of Riverside received a letter from NEC, in reference to the bid proposal they submitted for the RCRMC Transformer Upgrade project. NEC formally requested their bid proposal be withdrawn due to clerical calculation errors. The Economic Development Agency (EDA) project staff and County Counsel have reviewed and approved the documents from NEC to withdraw their bid and determined they were within the 5 business day timeline and had provided sufficient information of their errors per the Public Contract Code. EDA asks that the Board of Supervisors relieve NEC Electric, Inc. from their bid proposal, pursuant to Public Contract Code Section 5100 et seq., waive any minor irregularities in the bid from Austin Commercial LP, and award the bid to Austin Commercial LP in the amount of \$469,666.

PROJECT BUDGET:

The approximate allocation of the budget adjustment is as follows:

| | |
|-------------------------------|------------------|
| Original Approved Budget | 481,943 |
| Construction Adjustment | 150,000 |
| Project Contingency | 15,000 |
| Revised Project Budget | \$646,943 |

(Continued)

Economic Development Agency
Riverside County Regional Medical Center Transformer Upgrade – Approval of Construction
Agreement
May 2, 2013
Page 3

PROJECT BUDGET: (Continued)

Expenditures for FY 2012/13 are estimated at \$375,000 and expenditures for FY 2013/14 are estimated at \$271,943. All costs associated with this project will be fully funded by Enterprise Funds, thus no net county costs will be incurred.

Attachment:

Construction Agreement



**STANDARD FORM OF CONSTRUCTION CONTRACT BETWEEN
COUNTY AND CONTRACTOR**

by and between

AUSTIN COMMERCIAL, LP.

(the "Contractor")

And

THE COUNTY OF RIVERSIDE

(the "County")

FOR:

**RIVERSIDE COUNTY REGIONAL MEDICAL CENTER TRANSFORMER
UPGRADE BUILDING "F", PROJECT NO: FM0843000009**

**26520 CACTUS AVENUE
MORNEO VALLEY, 92555**

STANDARD FORM OF CONSTRUCTION CONTRACT
BETWEEN COUNTY AND CONTRACTOR

THIS STANDARD FORM OF CONSTRUCTION CONTRACT BETWEEN COUNTY AND CONTRACTOR ("Agreement") is entered into on this 28th day of February, 2013 by and between **THE COUNTY OF RIVERSIDE**, a political subdivision of the State of California ("County") and Austin Commercial LP, a General Contractor ("Contractor") whose principal place of business is located at 5933 West Century Blvd. Suite 610, Los Angeles, Calif., 90045.

ARTICLE 1
DEFINITIONS

Capitalized terms used in the Contract Documents shall have the meanings assigned to them in the General Conditions. If not defined in the General Conditions, they shall have the meanings assigned to them elsewhere in the Contract Documents. If not defined in the General Conditions or elsewhere, they shall have the meanings reasonably understood to apply to them by the context in which they are used.

ARTICLE 2
PERFORMANCE OF WORK

2.1 SCOPE OF WORK

Contractor shall execute the entire Work called for by the Contract Documents, except to the extent specifically indicated in the Contract Documents to be the responsibility of others.

2.2 STANDARD OF PERFORMANCE

In addition to and without limiting Contractor's other obligations under the Contract Documents, Contractor shall at all times in its performance of its obligations under the Contract Documents conform to the following general standards of performance:

2.2.1 the requirements of the Contract Documents;

2.2.2 the requirements and conditions of Applicable Laws;

2.2.3 the standard of care applicable to those who provide construction of the type called for by this Construction Contract for projects of a scope and complexity comparable to the Project;

2.2.4 Contractor shall furnish efficient business administration of the Work, utilizing sufficient senior level management and other qualified personnel to manage the Work; and

2.2.5 Contractor shall apply its best and highest skill and attention to completing the Work in an expeditious and economical manner, consistent with the expressed best interests of the County and within the limitations of the Contract Price and Contract Time.

ARTICLE 3 CONTRACT TIME

3.1 CONTRACT TIME

3.1.1 Substantial Completion. Subject to Contract Adjustments permitted by the Contract Documents, Contractor shall achieve Substantial Completion of the entire Work not later than ninety (90) Days after the Date of Commencement.

3.1.2 Final Completion. Subject to Contract Adjustments permitted by the Contract Documents, Contractor shall achieve Final Completion of the Work not later than sixty (60) Days after the actual occurrence of Substantial Completion.

3.1.3 Contract Adjustments. The Contract Time shall be extended or shortened only in accordance with the provisions of the Contract Documents governing Contract Adjustments to the Contract Time.

3.2 LIQUIDATED DAMAGES TO COUNTY

3.2.1 County's Right. County and Contractor acknowledge that if Contractor fails to Substantially Complete the Work within the Contract Time for Substantial Completion, County will suffer substantial Losses, which would be both extremely difficult and impracticable to ascertain. On that basis they agree, as a reasonable estimate of those Losses and not a penalty, to the assessment and recovery by County of liquidated damages under this Section 3.2.

3.2.2 Per Diem Rate. If Contractor fails to actually achieve Substantial Completion of the entire Work within the Contract Time for Substantial Completion, Contractor shall pay to County as liquidated damages the amount of one thousand Dollars (\$1,000) per Day for each Day occurring after the expiration of the Contract Time for Substantial Completion until Contractor achieves Substantial Completion of the entire Work.

3.2.3 Adjustment for Extensions of Time. Subject to the provisions of Paragraph 8.2.8 of the General Conditions dealing with concurrency of Delays, liquidated damages shall not be charged to Contractor for a period of time for which the Contractor is entitled under the Contract Documents to a Contract Adjustment to the Contract Time for Substantial Completion.

3.2.4 Partial Completion. The liquidated damages provided for under this Section 3.2 shall not be reduced or apportioned: (1) for Substantial Completion of portions of the Work prior to Substantial Completion of the entirety of the Work; or (2) if portions of the Work are deleted pursuant to (a) the County's right to order Deleted Work; or (b) a termination by County of a portion of the Construction Contract or a deletion of portion of Work for the convenience of the County or due to an Event of Contractor Default.

3.2.5 Remedies. County may deduct any liquidated damages payable under this Section 3.2 from money due or to become due to Contractor under the Contract Documents, or pursue any other legal remedy to collect such liquidated damages from Contractor and/or its Surety.

3.2.6 Not a Limitation. County's rights under this Section 3.2 shall not be interpreted as precluding or limiting: (1) any right or remedy of County arising from an Event of Contractor Default other than a failure to achieve Substantial Completion of the Work within the Contract Time for Substantial Completion; or (2) County's right to order an acceleration, at Contractor's Own Expense, of performance of the Work to overcome Delay, including, without limitation, a Delay for which County has the right to assess liquidated damages under this Section 3.2.

3.3 LIQUIDATED DAMAGES TO CONTRACTOR

3.3.1 Contractor's Right. County and Contractor acknowledge and agree that if Contractor is unable due to Compensable Delay to actually achieve Substantial Completion of the Work within the Contract Time for Substantial Completion, Contractor and its affected Subcontractors will suffer Losses that would be both extremely difficult and

impracticable to ascertain. On that basis they agree, as a reasonable estimate of those Losses and not a penalty, to the payment by County to Contractor of liquidated damages under this Section 3.3.

3.3.2 Daily Rate. Subject to the provisions of Paragraph 8.2.8 of the General Conditions dealing with concurrency of Delays, the Contract Price shall be increased by Change Order or Unilateral Change Order in the amount of one thousand Dollars (\$1,000) per Day as liquidated damages for each Day for which Contractor is entitled under the Contract Documents to a Contract Adjustment extending the Contract Time for Substantial Completion due to Compensable Delay, with no additional amount added thereto or calculated thereon for Allowable Markup or any other markup for overhead or profit to Contractor or any Subcontractor, of any Tier.

3.3.3 Payment by County. A Change Order or Unilateral Change Order setting forth a Contract Adjustment to the Contract Price for liquidated damages permitted by this Section 3.3 shall be executed following, and not before, actual Substantial Completion and prior to or contemporaneously with Final Completion. Notwithstanding any other provision of the Contract Documents to the contrary and without limitation to the County's rights of withholding payment to Contractor as permitted elsewhere in the Contract Documents or under Applicable Laws, any amounts due to the Contractor under this Section 3.3 shall be payable as part of, and not prior to the due date for payment of, Final Payment to Contractor.

3.3.4 Deleted Work. A Contract Adjustment shall be made pursuant to Subparagraph 8.2.6.2 of the General Conditions reducing the Contract Price and Contract Time in the event that the Contract Time is shortened due to (1) Deleted Work; or (2) a termination by County of a portion of the Construction Contract for convenience or due to an Event of Contractor Default.

3.3.5 Termination. County shall have no liability to Contractor to pay any liquidated damages under this Section 3.3, nor shall County have any other liability to Contractor or any Subcontractor for any Loss due to Delay (including, without limitation, Compensable Delay) in the event the Construction Contract is wholly terminated (whether such termination is a termination for cause by County or Contractor or a termination for convenience by County) at any time prior to expiration of the Contract Time for Substantial Completion set forth in Paragraph 3.1.1, above.

3.3.6 Exclusive Remedy. Liquidated damages payable by County under this Section 3.3 constitute the Contractor's sole and exclusive right and remedy for recovery from County of Losses to Contractor and its Subcontractors, of every Tier, that are attributable to Compensable Delay, regardless of the cause, duration or timing of the Compensable Delay and no other Contract Adjustment, or other form of compensation or reimbursement, of any kind, shall be made to Contractor or any Subcontractor, of any Tier, for any Loss resulting, directly or indirectly, from, or attributable to, any of the following: (1) Unexcused Delay or acceleration to overcome Unexcused Delay; (2) Excusable Delay or any acceleration not authorized by County in writing to overcome Excusable Delay; or (3) concurrency of a Compensable Delay with any different type or class of Unexcused Delay or Excusable Delay, whether such concurrency is a concurrency in cause or in effect.

3.3.7 WAIVER BY CONTRACTOR.

CONTRACTOR WAIVES THE RIGHT TO FURTHER RECOURSE OR RECOVERY OF COSTS OR DAMAGES BY REASON OF OR RELATED TO ANY DELAY (INCLUDING, WITHOUT LIMITATION, COMPENSABLE DELAY) THAT IS IN EXCESS OF OR NOT RECOVERED BY CONTRACTOR AS PART OF THE LIQUIDATED DAMAGES PAYABLE TO CONTRACTOR UNDER THIS SECTION 3.3.

ARTICLE 4 CONTRACTOR COMPENSATION

4.1 CONTRACT PRICE

4.1.1 Contract Price. County shall pay the Contractor in current funds for the Contractor's performance of the Work in accordance with the Contract Documents the Contract Price, exclusive of Contract Adjustments, of four hundred, sixty nine thousand, six hundred and sixty six Dollars (\$469,666.00).

4.1.2 Basis. The Contract Price set forth in Paragraph 4.1.1, above, is based on the Bid submitted by Contractor as adjusted for Alternates accepted by County as set forth in Section 4.2, below.

4.1.3 Adjustments. The Contract Price is only subject to adjustment as permitted by the General Conditions for Contract Adjustments due to Compensable Changes, Deleted Work or Compensable Delay.

4.1.4 All-Inclusive Price. The Contract Price as adjusted for Contract Adjustment permitted by the Contract Documents is the total amount payable by County to Contractor for performance of the Work under the Contract Documents and is deemed to cover all Losses, foreseeable or unforeseeable, arising out of or related to past, present or future circumstances within or outside the control of the Contractor or its Subcontractors affecting the time or cost of performing the Work, including, without limitation, the effects of natural elements upon the Work, unforeseen difficulties or obstructions affecting the performance of the Work (including, without limitation, unforeseen conditions at the Site that do not constitute Differing Site Conditions) and unforeseen fluctuations in market conditions and price escalations (whether occurring locally, nationally or internationally).

4.2 ALTERNATES

The Contract Price includes the following Alternates, which are described in the Contract Documents and are hereby accepted by County:

| Number | Description | Dollar Amount |
|--------|-------------|---------------|
| | | |

4.3 UNIT PRICES

Unit prices agreed to by County and Contractor are as follows:

| Description | Measurement Unit | Dollar Amount |
|-------------|------------------|---------------|
| | | |

ARTICLE 5 ENUMERATION OF CONTRACT DOCUMENTS

5.1 LIST OF CONTRACT DOCUMENTS

The Contract Documents include, without limitation, the following:

5.1.1 Construction Contract. The Contract Documents include this executed Standard Form of Construction Contract Between County and Contractor.

5.1.2 General Conditions. The Contract Documents include the General Conditions of the Standard Form of Construction Contract Between County and Contractor (Long Form) or General Conditions of the Standard Form of Construction Contract Between County and Contractor (Short Form).

5.1.3 Specifications. The Contract Documents include the following Specifications:

| Title | Date | Divisions |
|--|------|-----------|
| SEE EXHIBIT 'A' WITH TABLE OF CONTENTS FOR SPECIFICATIONS AS APPROVED BY BOARD OF SUPERVISORS ON 11/06/2012 AND INCORPORATED HEREIN. | | |

5.1.4 Drawings. The Contract Documents include the following Drawings dated December 19, 2011, unless a different date is shown below:

| Sheet Number | Title | Date | Pages |
|--|-------|------|-------|
| SEE EXHIBIT 'B' WITH LIST OF DRAWINGS INCLUDED IN SPECIFICATIONS APPROVED BY BOARD OF SUPERVISORS ON 11/06/2012 AND INCORPORATED HEREIN. | | | |

5.1.5 Addenda. The Contract Documents include the following Addenda:

| Addendum Number | Title | Date | Pages |
|-----------------|-------|------|-------|
| | | | |

5.1.6 Reference Documents. The Contract Documents include the following Reference Documents:

| Title | Author | Date | Pages |
|-------|--------|------|-------|
| | | | |

5.1.7 List Other Contract Documents, if any

ARTICLE 6 SPECIAL REQUIREMENTS

6.1 LABOR CODE SECTION 1861 CERTIFICATION

By signing below, Contractor certifies that he/she/it is aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions of the California Labor Code, and that he/she/it will comply with such provisions before commencing the performance of the Work.

CONTRACTORS ARE REQUIRED BY LAW TO BE LICENSED AND REGULATED BY THE CONTRACTORS' STATE LICENSE BOARD WHICH HAS JURISDICTION TO INVESTIGATE COMPLAINTS AGAINST CONTRACTORS IF A COMPLAINT REGARDING A PATENT ACT OR OMISSION IS FILED WITHIN FOUR YEARS OF THE DATE OF THE ALLEGED VIOLATION. A COMPLAINT REGARDING A LATENT ACT OR OMISSION PERTAINING TO STRUCTURAL DEFECTS MUST BE FILED WITHIN 10 YEARS OF THE DATE OF THE ALLEGED VIOLATION. ANY QUESTIONS CONCERNING A CONTRACTOR MAY BE REFERRED TO THE REGISTRAR, CONTRACTORS' STATE LICENSE BOARD, P.O. BOX 26000, SACRAMENTO, CALIFORNIA, 95826.

IN WITNESS WHEREOF, the parties hereto have made and executed four (4) originals of this Construction Contract, on _____ [to be filled in by Clerk of the Board].

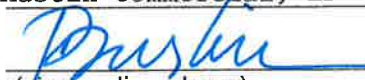
[SIGNATURES ON FOLLOWING PAGE (PM'S PLEASE EDIT THE POSITIONING OF THIS STATEMENT ACCORDINGLY AND DELETE THIS NON-BOLDED TEXT AFTERWARD)]

"COUNTY"

COUNTY OF RIVERSIDE

"CONTRACTOR"

Austin Commercial, LP


(sign on line above)

By: _____
JOHN J. BENOIT, Chairman
Board of Supervisors

By: Peter B. Durbin
(type name)

Title: Director of Risk Management

The following information must be provided concerning the Contractor:

State whether Contractor is corporation, individual, partnership, joint venture or other: Delaware limited partnership

If "other", enter legal form of business:

Enter address:

3535 Travis Street, Suite 300
Dallas, TX 75204

ATTEST:

Kecia Harper-Ihem
Clerk of the Board

Telephone: 214-443-5700

Facsimile: 214-443-5793

Email: pdurbin@Austin-ind.com

By: _____
Deputy

Employer State

Tax ID #: 75-2846906

(SEAL)

State Contractor License #: 806038

If Contractor is not an individual or corporation, list names of 4 representatives who have authority to contractually bind Contractor:

If Contractor is a corporation, state:

Name of President: _____

Name of Secretary: _____

State of Incorporation: _____

FORM APPROVED COUNTY COUNSEL

BY:  4/26/13
MARSHAL VICTOR DATE

**CERTIFIED COPY OF RESOLUTIONS
AUSTIN COMMERCIAL, INC.**

I, Charles E. Hardy, Secretary of Austin Commercial, Inc., a Delaware corporation (the "Company"), hereby certify that the following is a true and correct copy of resolutions adopted by the Board of Directors of the Company on November 14, 2012. These resolutions have not been rescinded and are in full force and effect:

RESOLVED, that the following persons be and are hereby elected officers of the Company, effective November 29, 2012 to serve until they leave the Company or until the next Annual Meeting of the Board of Directors, whichever occurs first:

| | |
|--|----------------------|
| Chairman, Chief Executive Officer, and Chairman of Executive Committee | David B. Walls |
| President, Chief Operating Officer, and Member of Executive Committee | William C. McAdoo |
| Senior Vice President and Member of the Board of Directors | James R. Cleveland |
| Senior Vice President and Member of the Board of Directors | Bernard E. Hewett |
| Vice President & Assistant Secretary and Member of the Board of Directors | Steven W. Warnick |
| Vice President, Finance, Assistant Secretary and Member of the Board of Directors | Tony J. Jackson |
| Controller and Assistant Secretary | P. Joseph McLaughlin |
| Secretary | Charles E. Hardy |
| Treasurer | Brenda W. Schertz |
| Assistant Secretary | Alan P. Stakem |

RESOLVED, that the minutes of the Board of Directors Meeting held February 28, 2012 are approved, and that the actions of the Executive Committee of the Board since the last meeting are ratified and approved.

RESOLVED, that the following persons be and are hereby authorized to execute contracts and surety bonds and change orders on behalf of the Company from this date until the next Annual Meeting of the Board of Directors or until they leave the Company, whichever occurs first:

| | |
|-------------------|-------------------|
| Peter Durbin | William C. McAdoo |
| Bernard E. Hewett | David B. Walls |
| Tony J. Jackson | Steven W. Warnick |

RESOLVED, that the following persons be and are hereby authorized to submit proposals on behalf of the Company from this date until the next Annual Meeting of the Board of Directors or until they leave the Company, whichever occurs first:

Jack Archer
James R. Cleveland
Peter Durbin
Roger Files
David Graham
Jim Hall
Bernard E. Hewett
Tony J. Jackson
Jim Lauer
Ralph Ketchum

Steve Kitching
William C. McAdoo
Kent McNorton
Steve Penson
Jack Roberts
Richard Sasser
David B. Walls
Steven W. Warnick
David Yeagy

RESOLVED, that the following persons be and are hereby authorized to execute subcontracts and purchase orders on behalf of the Company from this date until the next Annual Meeting of the Board of Directors or until they leave the Company, whichever occurs first:

Jack Archer
James R. Cleveland
Peter Durbin
Roger Files
David Graham
Jim Hall
Bernard E. Hewett
Tony J. Jackson
Ralph Ketchum
Steve Kitching

Jim Lauer
William C. McAdoo
Kent McNorton
Steve Penson
Ed Robertson
Richard Sasser
David Smith
David B. Walls
Steven W. Warnick

RESOLVED, that in accordance with the Company's TQM2 Operating Policy, Chapter 4, Section 4.1, Note 3, all senior project managers and project administrators shall be authorized to execute subcontracts and purchase orders issued by the Company, as well as change orders and standard subcontract agreement variations (as defined in the TQM2 document), provided that all such persons shall be duly appointed to one of those positions, that their authority shall not extend beyond the period of their appointment (in no event longer than their employment by Company or one of its affiliated entities), and that such authority may be revoked immediately by any regional manager through oral or written notice.

RESOLVED, that, from this date until the next annual Meeting of the Board of Directors or until they leave the Company, whichever occurs sooner, the following persons be and are hereby authorized to execute prime contract change orders on behalf of the Company, provided that such change orders amend only the scope, cost or schedule:

Jack Archer
James R. Cleveland
Peter Durbin
Roger Files
David Graham
Jim Hall
Bernard E. Hewett

Ralph Ketchum
Steve Kitching
William McAdoo
Kent McNorton
Steve Penson
Richard Sasser
Fernando Urioste

RESOLVED, that the officers of the Company and the non-officers listed below be and are hereby authorized to act on behalf of the Company and execute such documents as may be required to obtain required Storm Water Permit Applications and Notices in accordance with applicable laws and regulations from this date until the next Annual Meeting of the Board of Directors or until they leave the Company, whichever occurs first:

Don Blair
Jessy G. Cole
Peter Durbin
Roger D. Files
Jim Hall
Bernard E. Hewett
Ralph Ketchum

Steve Kitching
William McAdoo
Kent E. McNorton
Steven B. Penson
Richard Sasser
David Smith
Fernando Urioste


CHARLES E. HARDY, Secretary
Austin Commercial, Inc.

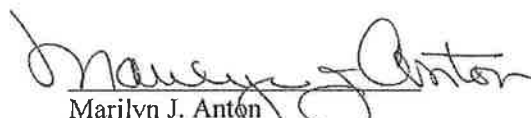
THE STATE OF TEXAS

COUNTY OF DALLAS

BEFORE ME, THE UNDERSIGNED AUTHORITY, on this day personally appeared Charles E. Hardy, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same for the purpose and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 4th day of December, 2012.




Marilyn J. Anton
Notary Public in and for the
State of Texas

Project No. FM084330000009

Bond No. 8228-99-52

PERFORMANCE BOND

(Public Work - Public Contract Code Section 20129 (b))

KNOW ALL PERSONS BY THESE PRESENTS:

THAT WHEREAS, the County of Riverside ("County") by action of the Board of Supervisors on _____ 20__, has awarded Construction Contract Number FM084330000009 ("Contract") to the undersigned Austin Commercial, LP, as Principal ("Principal") to perform the work ("Work") for the following project: Riverside County Regional Medical Center Transformer Upgrade Building "F", which Contract is by this reference hereby incorporated herein and made a part hereof;

AND, WHEREAS, said Principal is required by the Contract and/or by California Public Contract Code, Section 20129 (b) to furnish a performance bond for the faithful performance of the Contract;

NOW THEREFORE, we, the Principal and Federal Insurance Company ("Surety"), an admitted surety insurer pursuant to Code of Civil Procedure, Section 995.120, are held and firmly bound unto County in the penal sum of Four Hundred Sixty Nine Thousand, Six Hundred Sixty Six Dollars(\$469,666.00), this amount being not less than one hundred percent (100%) of the total sum payable by County under the Contract at the time the Contract is awarded by County to the Principal, lawful money of the United States of America, for the payment of which sum well and truly to be made, we, Principal and Surety, bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that if Principal, its heirs, executors, administrators, successors or assigns approved by County, shall in all things stand to and abide by and well and truly keep and perform all the undertakings, terms, covenants, conditions and agreements in the Contract, including, without limitation, all obligations during the original term and any extensions thereof as may be granted by County, with or without notice to Surety thereof (including, without limitation, the obligation for Principal to pay liquidated damages), all obligations during the period of any warranties and guarantees required under the Contract and all other obligations otherwise arising under the terms of the Contract (such as, but not limited to, obligations of indemnification), all within the time and in the manner therein designated in all respects according to their true intent and meaning, then this obligation shall become null and void; otherwise, it shall be and remain in full force and effect.

Whenever Principal shall be, and is declared by County to be, in default under the Contract, the Surety shall promptly either remedy the default, or, if the Contract is terminated by County or the Principal's performance of the Work is discontinued, Surety shall promptly complete the Contract through

its agents or independent contractors, subject to acceptance of such agents or independent contractors by County as hereinafter set forth, in accordance with its terms and conditions and to pay and perform all obligations of Principal under the Contract (including, without limitation, all obligations with respect to payment of liquidated damages) less the "Balance of the Contract Price" (as hereinafter defined); subject to the penal amount of this bond as set forth above. The term "Balance of the Contract Price," as used in this paragraph, shall mean the total amount payable to Principal by County under the Contract and any modifications thereto, less the amount previously paid by County to the Principal and less amounts that County is authorized to withhold under the terms of the Contract.

If County determines that completion of the Contract by Surety or its agents or independent contractors must be performed by a lowest responsible bidder selected pursuant to a competitive bidding process, then Surety shall comply with such processes in accordance with the requirements of County and applicable laws. Unless otherwise approved by District, in the exercise of its sole and absolute discretion, Surety shall not utilize Principal in completing performance of the Work.

No right of action shall accrue on this bond to or for the use of any person or entity other than County or its successors or assigns.

In the event any legal proceeding or arbitration is brought upon this bond by County and judgment or award is entered in favor of County as the prevailing party, Surety shall pay all costs and attorney's fees incurred by the County.

Correspondence or claims relating to this bond shall be sent to Surety at the address set forth below.

Surety, for value received, agrees that no change, extension of time, alteration or addition to the terms of the Contract, or to the work to be performed thereunder, shall in any way impair or affect Surety's obligation under this bond, and Surety does hereby waive notice of any such changes, extensions of time, alterations or additions.

Surety's obligations hereunder are independent of the obligations of any other surety for the performance of the Contract, and suit may be brought against Surety and such other sureties, joint and severally, or against any one or more of them or against less than all of them, without impairing County's rights against the others.

Affix Seal if Corporation

Austin Commercial, LP

(Firm Name – Principal)

5933 Century Blvd., #610

Los Angeles, CA 90045

(Business Address)

By *[Signature]*

(Original Signature)

Director of Risk Mgmt

(Title)

Federal Insurance Company

(Corporation Name- Surety)

Affix Corporate Seal

3 Mountain View Road – 1st Floor

Warren, New Jersey 07059

(Business Address)

By *[Signature]*

(Signature – Attached Notary's Acknowledgment)

Jeff Abraham

ATTORNEY-IN-FACT
(Title-Attach Power of Attorney)

Note: Notary acknowledgment of signatures of Bidder and Surety, and Surety's Power of Attorney, must be included or attached

Project No. FM08433000009

Bond No. 8228-99-52

PAYMENT BOND

(Public Work-Civil Code Sections 9550 et seq.)

KNOW ALL PERSONS BY THESE PRESENTS:

THAT WHEREAS, the County of Riverside ("County") by action of the Board of Supervisors on _____ 20 ___, has awarded Construction Contract Number FM08433000009 ("Contract") to the undersigned Austin Commercial, LP, as: Principal ("Principal") to perform the work ("Work") for the following project Riverside County Regional Medical Center Transformer Upgrade Building "F";

AND, WHEREAS, said Principal is required by the Contract and/or by Division 3, Part IV, Title XV, Chapter 7 (commencing at Section 9550) of the California Civil Code to furnish a payment bond in connection with the Contract;

NOW THEREFORE, we, the Principal and Federal Insurance Company ("Surety"), an admitted surety insurer pursuant to Code of Civil Procedure, Section 995120, are held and firmly bound unto County in the penal sum of and Four Hundred Sixty Nine Thousand, Six Hundred Sixty Six Dollars (\$469,666.00), this amount being not less than one hundred percent (100%) of the total sum payable by County under the Contract at the time the Contract is awarded by County to the Principal, lawful money of the United States of America, for the payment of which sum well and truly to be made, we, Principal and Surety, bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that if Principal, its heirs, executors, administrators, successors, or assigns approved by County, or its subcontractors, of any contracting tier, shall fail to pay any person or persons named in California Civil Code, Section 9554, then Surety will pay for the same, in or to an amount not exceeding the penal amount hereinabove set forth, and also will pay to the prevailing party if suit is brought upon this bond, reasonable attorney's fees as provided in California Civil Code, Section 9564.

Surety, for value received, agrees that no change, extension of time, alteration or addition to the terms of the Contract, or to the Work to be performed thereunder, nor any rescission or attempted rescission of the Contract or this bond, nor any conditions precedent or subsequent in the bond or Contract attempting to limit the right of recovery of any claimant otherwise entitled to recover under the Contract or this bond shall in any way impair or affect Surety's obligation under this bond, and Surety does hereby waive notice of any such changes, extensions of time, alterations or additions.

Surety is not released from liability to those for whose benefit this bond has been given, by reason of any breach of the Contract by County or Principal.

Surety's obligations hereunder are independent of the obligations of any other surety for the performance of the Contract, and suit may be brought against Surety and such other sureties, joint and severally, or against any one or more of them or against less than all of them, without impairing County's rights against the others.

Affix Seal if Corporation

Austin Commercial, LP

(Firm Name – Principal)

5933 W. Century Blvd. #610

Los Angeles, CA 90045

(Business Address)

By 

(Original Signature)

Director of Risk Mgmt

(Title)

Federal Insurance Company

(Corporation Name – Surety)

3 Mountain View Road – 1st Floor

Warren, New Jersey 07059

(Business Address)

By 

(Signature -Attached Notary's Acknowledgment)

Affix Corporate Seal

Jeff Abraham

ATTORNEY-IN-FACT.
(Title-Attach Power of Attorney)

Note: Notary acknowledgment of signatures of Bidder and Surety, and Surety's Power of Attorney must be included or attached



**Chubb
Surety**

**POWER
OF
ATTORNEY**

**Federal Insurance Company
Vigilant Insurance Company
Pacific Indemnity Company**

**Attn: Surety Department
15 Mountain View Road
Warren, NJ 07059**

Know All by These Presents, That FEDERAL INSURANCE COMPANY, an Indiana corporation, VIGILANT INSURANCE COMPANY, a New York corporation, and PACIFIC INDEMNITY COMPANY, a Wisconsin corporation, do each hereby constitute and appoint Jeff Abraham, James R. Bennett, Jr., Jeffrey T. Fisher, and J.E. Schranz of Dallas, Texas -----

each as their true and lawful Attorney- in- Fact to execute under such designation in their names and to affix their corporate seals to and deliver for and on their behalf as surety thereon or otherwise, bonds and undertakings and other writings obligatory in the nature thereof (other than bail bonds) given or executed in the course of business, and any instruments amending or altering the same, and consents to the modification or alteration of any instrument referred to in said bonds or obligations.

In Witness Whereof, said FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, and PACIFIC INDEMNITY COMPANY have each executed and attested these presents and affixed their corporate seals on this **21st** day of **April, 2010**.


Kenneth C. Wendel, Assistant Secretary


David B. Norris, Jr., Vice President

STATE OF NEW JERSEY
County of Somerset ss.

On this **21st** day of **April, 2010** before me, a Notary Public of New Jersey, personally came Kenneth C. Wendel, to me known to be Assistant Secretary of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, and PACIFIC INDEMNITY COMPANY, the companies which executed the foregoing Power of Attorney, and the said Kenneth C. Wendel, being by me duly sworn, did depose and say that he is Assistant Secretary of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, and PACIFIC INDEMNITY COMPANY and knows the corporate seals thereof, that the seals affixed to the foregoing Power of Attorney are such corporate seals and were thereto affixed by authority of the By- Laws of said Companies; and that he signed said Power of Attorney as Assistant Secretary of said Companies by like authority; and that he is acquainted with David B. Norris, Jr., and knows him to be Vice President of said Companies; and that the signature of David B. Norris, Jr., subscribed to said Power of Attorney is in the genuine handwriting of David B. Norris, Jr., and was thereto subscribed by authority of said By-Laws and in deponent's presence.



STEPHEN B. BRADT
Notary Public, State of New Jersey
No. 2321097
Commission Expires Oct. 25, 2014


Notary Public

CERTIFICATION

Extract from the By- Laws of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, and PACIFIC INDEMNITY COMPANY:

"All powers of attorney for and on behalf of the Company may and shall be executed in the name and on behalf of the Company, either by the Chairman or the President or a Vice President or an Assistant Vice President, jointly with the Secretary or an Assistant Secretary, under their respective designations. The signature of such officers may be engraved, printed or lithographed. The signature of each of the following officers: Chairman, President, any Vice President, any Assistant Vice President, any Secretary, any Assistant Secretary and the seal of the Company may be affixed by facsimile to any power of attorney or to any certificate relating thereto appointing Assistant Secretaries or Attorneys- in- Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and any such power of attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding upon the Company with respect to any bond or undertaking to which it is attached."

I, Kenneth C. Wendel, Assistant Secretary of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, and PACIFIC INDEMNITY COMPANY (the "Companies") do hereby certify that

- (i) the foregoing extract of the By- Laws of the Companies is true and correct,
- (ii) the Companies are duly licensed and authorized to transact surety business in all 50 of the United States of America and the District of Columbia and are authorized by the U.S. Treasury Department; further, Federal and Vigilant are licensed in Puerto Rico and the U.S. Virgin Islands, and Federal is licensed in American Samoa, Guam, and each of the Provinces of Canada except Prince Edward Island; and
- (iii) the foregoing Power of Attorney is true, correct and in full force and effect.

Given under my hand and seals of said Companies at Warren, NJ this




Kenneth C. Wendel, Assistant Secretary

IN THE EVENT YOU WISH TO NOTIFY US OF A CLAIM, VERIFY THE AUTHENTICITY OF THIS BOND OR NOTIFY US OF ANY OTHER MATTER, PLEASE CONTACT US AT ADDRESS LISTED ABOVE, OR BY Telephone (908) 903- 3493 Fax (908) 903- 3656 e-mail: surety@chubb.com

IMPORTANT NOTICE

TO OBTAIN INFORMATION OR MAKE A COMPLAINT:
YOU MAY CONTACT THE TEXAS DEPARTMENT OF
INSURANCE TO OBTAIN INFORMATION ON COMPANIES,
COVERAGES RIGHTS OR COMPLAINTS AT:

1-800-252-3439

YOU MAY WRITE THE TEXAS DEPARTMENT OF INSURANCE:

P.O. BOX 149104
AUSTIN, TX 78714-9104
FAX# (512) 475-1771

You may also write to:

FEDERAL INSURANCE COMPANY

At:

Attn: Claims Department
15 Mountain View Road
Warren, NJ 07059

Fax No.: 908-903-3656 or 908-903-3485

ATTACH THIS NOTICE TO YOUR BOND. This notice is for information only and does not become a part or a condition of the attached document and is given to comply with Section 2253.048, Government Code, and Section 53.202, Property Code, effective September 1, 2001.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
01/16/2013

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

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

| | | | | |
|----------|--|-------------------------------|---|--------|
| PRODUCER | WILLIS OF TEXAS, INC. (972) 385-9800 / (800) 445-0115 15305 NORTH DALLAS PARKWAY, SUITE 1100 ADDISON, TX 75001 | CONTACT NAME | | |
| | | PHONE (A/C, No, Ext): | FAX (A/C, No): | |
| INSURED | AUSTIN COMMERCIAL, INC. AUSTIN COMMERCIAL, LP 3535 TRAVIS STREET, SUITE 300 DALLAS, TEXAS 75204 | E-MAIL ADDRESS: | | |
| | | INSURER(S) AFFORDING COVERAGE | | NAIC # |
| | | INSURER A: | ACE AMERICAN INSURANCE COMPANY | |
| | | INSURER B: | ILLINOIS UNION INSURANCE COMPANY | |
| | | INSURER C: | AMERICAN GUARANTEE & LIABILITY INS. CO. | |
| | | INSURER D: | INDEMNITY INS. CO. OF NORTH AMERICA | |
| | | INSURER E: | | |
| | | INSURER F: | | |

COVERAGES CERTIFICATE NUMBER: 1466 REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

| INSR LTR | TYPE OF INSURANCE | ADDL INSR | SUBR WVD | POLICY NUMBER | POLICY EFF (MM/DD/YYYY) | POLICY EXP (MM/DD/YYYY) | LIMITS |
|----------|---|-----------|----------|---------------|-------------------------|-------------------------|---|
| A | GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC | | | HDO G24548740 | 10/01/12 | 10/01/13 | EACH OCCURRENCE \$ 2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 2,000,000 GENERAL AGGREGATE \$ 4,000,000 PRODUCTS - COMP/OP AGG \$ 4,000,000 \$ |
| A | AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO ALL OWNED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$ | | | ISA HO8724763 | 10/01/12 | 10/01/13 | COMBINED SINGLE LIMIT (Ea accident) \$ 2,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$ EACH OCCURRENCE \$ AGGREGATE \$ \$ |
| D | WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below Y/N <input type="checkbox"/> N/A | | | WLR C47008098 | 10/01/12 | 10/01/13 | <input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000 |

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

RE: Austin Commercial, LP - Riverside County Regional Medical Center Transformer Upgrade Building F

The County of Riverside, its directors, officers, special districts, board of supervisors, employees, agents or representatives are additional insureds on the general liability and auto liability policies, and the same is granted a waiver of subrogation.

CERTIFICATE HOLDER

CANCELLATION

COUNTY OF RIVERSIDE
 C/O DEPARTMENT OF FACILITIES MANAGEMENT,
 DESIGN AND CONSTRUCTION
 3133 MISSION INN AVE.
 RIVERSIDE, CA 92507

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

© 1988-2010 ACORD CORPORATION. All rights reserved.

WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS

| | | | |
|--|-----------------------------------|--|--|
| Named Insured Austin Industries, Inc. | | | Endorsement Number 24 |
| Policy Symbol ISA | Policy Number H08724763 | Policy Period 10/01/2012 to 10/01/2013 | Effective Date of Endorsement 10/01/2012 |
| Issued By (Name of Insurance Company) ACE American Insurance Company | | | |

Insert the policy number. The remainder of the information is to be completed only when this endorsement is issued subsequent to the preparation of the policy.

This endorsement modifies insurance provided under the following:

**BUSINESS AUTO COVERAGE FORM
MOTOR CARRIERS COVERAGE FORM
TRUCKERS COVERAGE FORM
GARAGE COVERAGE FORM**

We waive any right of recovery we may have against the person or organization shown in the Schedule below because of payments we make for injury or damage arising out of the use of a "covered auto". The waiver applies only to the person or organization shown in the Schedule.

Schedule

All states except Virginia

[Any person or organization against whom you have agreed to waive your right of recovery in a written contract, provided such contract was executed prior to the date of loss.]

Authorized Agent

Workers' Compensation and Employers' Liability Policy

| | |
|---|--|
| Named Insured AUSTIN INDUSTRIES, INC. 3535 TRAVIS STREET, SUITE 200 DALLAS TX 75224 | Endorsement Number |
| | Policy Number Symbol: WLR Number: C47008098 |
| Policy Period 10-01-2012 TO 10-01-2013 | Effective Date of Endorsement 10-01-2012 |
| Issued By (Name of Insurance Company) INDEMNITY INS. CO. OF NORTH AMERICA | |
| Insert the policy number. The remainder of the information is to be completed only when this endorsement is issued subsequent to the preparation of the policy. | |

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.

This agreement shall not operate directly or indirectly to benefit any one not named in the Schedule.

Schedule

ANY PERSON OR ORGANIZATION AGAINST WHOM YOU HAVE AGREED TO WAIVE YOUR RIGHT OF RECOVERY IN A WRITTEN CONTRACT PROVIDED SUCH CONTRACT WAS EXECUTED PRIOR TO THE DATE OF LOSS.

For the states of CA, UT, TX, refer to state specific endorsements.
This endorsement is not applicable in KY, NH, and NJ.



Authorized Agent

AUTOMATIC ADDITIONAL INSURED

| | | | |
|--|-----------------------------------|--|--|
| Named Insured Austin Industries, Inc. | | | Endorsement Number 2 |
| Policy Symbol ISA | Policy Number H08724763 | Policy Period 10/01/2012 to 10/01/2013 | Effective Date of Endorsement 10/01/2012 |
| Issued By (Name of Insurance Company) ACE American Insurance Company | | | |

Insert the policy number. The remainder of the information is to be completed only when this endorsement is issued subsequent to the preparation of the policy.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement modifies insurance provided under the following.

- BUSINESS AUTO COVERAGE FORM**
- BUSINESS AUTO PHYSICAL DAMAGE COVERAGE FORM**
- GARAGE COVERAGE FORM**
- MOTOR CARRIER COVERAGE FORM**
- TRUCKERS COVERAGE FORM**

SECTION II – LIABILITY COVERAGE, WHO IS AN INSURED is amended to include as an "insured" any person or organization you are required in a written contract or agreement to name as an Additional Insured on your policy but only for "bodily injury" or "property damage" to which this insurance applies if the "accident" is caused by:

1. You, while using a covered "auto" or
2. Any other person, while using a covered "auto" with your permission.

The insurance provided by this endorsement shall be subject to the following additional conditions:

1. The Limit of Insurance provided for the Additional Insured shall not be greater than those required by contract and, in no event, shall the policy Limits of Insurance be increased by the contract.
2. All insuring agreements, exclusions, terms and conditions of the policy shall apply to the coverage (s) provided to the Additional Insured, and such coverage shall not be enlarged or expanded by reason of the contract.
3. Coverage provided by this endorsement shall be excess over any other valid and collectible insurance available to the Additional Insured (s) whether primary, excess, contingent or on any other basis unless the contract specifically requires that this insurance be primary or you request that it apply on a primary basis prior to loss.

Authorized Agent

BLANKET CONTRACTUAL ADDITIONAL INSURED ENDORSEMENT

| | | | | |
|---------------------------------------|------------------|---------------------------------|-------------------------------|----------|
| Named Insured | | Austin Industries, Inc. | Endorsement Number | 4 |
| Policy Symbol | Policy Number | Policy Period | Effective Date of Endorsement | |
| HDO | G24548740 | 10/01/2012 to 10/01/2013 | 10/01/2012 | |
| Issued By (Name of Insurance Company) | | | | |
| ACE American Insurance Company | | | | |

Insert the policy number. The remainder of the information is to be completed only when this endorsement is issued subsequent to the preparation of the policy.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY

THIS ENDORSEMENT MODIFIES INSURANCE PROVIDED UNDER THE FOLLOWING:

COMMERCIAL GENERAL LIABILITY COVERAGE FORM

The following clause is added to the Section II- Who is An Insured

The "Who is An Insured" Section is amended to include as an insured:

5. Any person or organization (hereinafter called "the additional insured") to whom the named insured (for purposes of this subsection 5., the "named insured" is the insured who is named in the declarations of this policy or added by Endorsement 1 to this policy) becomes obligated to include as an additional insured under this policy as a result of any contract or agreement the named insured enters into which requires the named insured to furnish insurance to that person or organization of the type provided by this policy, but only with respect to liability arising out your work or operations performed by or on behalf of the named insured or premises owned by or rented to the named insured under such written contract or agreement. However, the insurance provided will not exceed the lesser of:
- a. The coverage and/or limits of this policy, regardless of the number of insureds;
 - b. The coverage and/or minimum limits required by said contract or agreement.

This insurance shall apply as primary insurance only with regard to any additional insured for whom the named insured has agreed by written contract to provide insurance on a primary basis, and in such cases, any other insurance or self-insurance available to the additional insured shall be excess to, and not contributory with, the insurance afforded by this policy to that additional insured. However, if the contract does not specifically require that this insurance shall be primary, then this insurance shall be excess over and not contributory with any other valid and collectible insurance or self-insurance available to the additional insured whether such other insurance or self-insurance is primary, excess, or contingent, or on any other basis.

All other terms and conditions remain unchanged.

Authorized Agent

POLICY NUMBER: HDO G24548740

ENDT. #26
COMMERCIAL GENERAL LIABILITY
CG 24 04 05 09

WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

SCHEDULE

Name Of Person Or Organization:

Any person or organization against whom you have agreed to waive your right of recovery in a written contract, provided such contract was executed prior to the date of loss.

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

The following is added to Paragraph 8. **Transfer Of Rights Of Recovery Against Others To Us** of Section IV – Conditions:

We waive any right of recovery we may have against the person or organization shown in the Schedule above because of payments we make for injury or damage arising out of your ongoing operations or "your work" done under a contract with that person or organization and included in the "products-completed operations hazard". This waiver applies only to the person or organization shown in the Schedule above.