

FORM APPROVED COUNTY COUNSEL  
BY: Gregory P. Priamos DATE 7/26/16  
Departmental Concurrence

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

243  
(1672)



**SUBMITTAL DATE:**  
July 13, 2016

**FROM:** Economic Development Agency

**SUBJECT:** Riverside University Health System - Medical Center Emergency Department Decontamination Showers Upgrade Project - California Environmental Quality Act Exempt, Approve a Project Budget and Construction Contract with Vincor Construction, Inc., District 5, [\$201,433], RUHS Enterprise Fund 40050 - 100%

**RECOMMENDED MOTION:** That the Board of Supervisors:

1. Find that the Riverside University Health System (RUHS) - Medical Center (MC) Emergency Department (ED) Decontamination Showers (Decon Showers) Upgrade Project is exempt from the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15301, Class 1 Existing Facilities Exemption and Section 15061 (b)(3) "Common Sense" Exemption;
2. Approve a project budget of \$201,433 for the RUHS-MC ED Decon Showers Upgrade Project, and authorize the use of RUHS Enterprise Fund 40050, including incurred project expenses;

(Continued)

*Robert Field*

Robert Field  
Assistant County Executive Officer/EDA

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost:	POLICY/CONSENT (per Exec. Office)
COST	\$ 201,433	\$ 0	\$ 201,433	\$ 0	Consent <input type="checkbox"/> Policy <input checked="" type="checkbox"/>
NET COUNTY COST	\$ 0	\$ 0	\$ 0	\$ 0	
SOURCE OF FUNDS: RUHS Enterprise Fund 40050 - 100%				Budget Adjustment: No	
				For Fiscal Year: 2016/17	

**C.E.O. RECOMMENDATION:**

REVIEWED BY CIP

APPROVE

County Executive Office Signature

*Ivan M. Chand*  
Ivan M. Chand

BY:

*Rohini Dasika*  
Rohini Dasika

**MINUTES OF THE BOARD OF SUPERVISORS**

On motion of Supervisor Ashley, seconded by Supervisor Tavaglione and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Jeffries, Tavaglione, Washington, Benoit and Ashley  
Nays: None  
Absent: None  
Date: July 26, 2016  
xc: EDA

Kecia Harper-Ihem  
Clerk of the Board

By: *Kecia Harper-Ihem*  
Deputy

Prev. Agn. Ref.: N/A

District: 5

Agenda Number:

3-24

By: *Zareh Sarrafian*  
Zareh Sarrafian, Chief Executive Officer  
Riverside University Health System

☐ A-30 ☐ Positions Added ☐ Change Order ☐ 4/5 Vote

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

Economic Development Agency

**FORM 11:** Riverside University Health System - Medical Center Emergency Department Decontamination Showers Upgrade Project - California Environmental Quality Act Exempt, Approve a Project Budget and Construction Contract with Vincor Construction, Inc., District 5, [\$201,433], RUHS Enterprise Fund 40050 - 100%

**DATE:** July 13, 2016

**PAGE:** 2 of 4

## **RECOMMENDED MOTION:** (Continued)

3. Authorize the use of the Easy Indefinite Quantity Contract (EZIQC) sponsored by the National Joint Powers Alliance (NJPA) for a construction contract with Vincor Construction, Inc. (Vincor) of Brea, California, to complete the project;
4. Approve the attached construction contract between the County of Riverside (County) and Vincor in the amount of \$79,131 and authorize the Chairman of the Board to execute the contract on behalf of the County;
5. Authorize the Assistant County Executive Officer/EDA to administer the contract in accordance with applicable Board policies;
6. Delegate project management authority for the project to the Assistant County Executive Officer/EDA in accordance with applicable Board policies, including the authority to utilize consultants on the approved pre-qualified list for services in connection with the project, and are within the approved project budget; and
7. Authorize the Purchasing Department to execute the consultant services agreements in accordance with applicable Board policies.

## **BACKGROUND:**

### **Summary**

RUHS initiated and approved a project request to upgrade the existing RUHS-MC ED Decon Showers located at 26250 Cactus Avenue in Moreno Valley. The showers are currently non-compliant with building codes enforced by California's Office of Statewide Health Planning and Development (OSHPD). The project consists of minor construction work to correct all deficiencies related to the existing decontamination showers and the affected area adjacent to the Emergency Department at RUHS-MC to bring the showers into compliance with OSHPD requirements.

On August 18, 2015, a Pre-Qualified List for Architectural and Engineering Services was approved by the Board. Based on their experience and successful completion of similar projects, HMC Architects (HMC) was selected from the list of pre-approved architects to provide plans and specifications for the project. The plans and specification have been completed and were approved on September 16, 2015 by OSHPD.

On October 18, 2011, the Board of Supervisors (Board) ratified membership of the County in the NJPA. The County's membership in NJPA allows participation in the EZIQC program, a contract procurement method that allows the Economic Development Agency (EDA) to move more quickly to the construction phase of a project and expedite project delivery.

Vincor, an approved EZIQC contractor, received the approved plans and specifications from HMC, walked the site with EDA and RUHS personnel and developed the scope of work in accordance with the construction and EZIQC documents. Following the site walk and review of the drawings, Vincor submitted their proposal in the amount of \$79,131 in accordance with the EZIQC contract. The project is anticipated to be complete in 120 days after awarding the contract to Vincor.

(Continued)

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

Economic Development Agency

**FORM 11:** Riverside University Health System - Medical Center Emergency Department Decontamination Showers Upgrade Project - California Environmental Quality Act Exempt, Approve a Project Budget and Construction Contract with Vincor Construction, Inc., District 5, [\$201,433], RUHS Enterprise Fund 40050 - 100%**DATE:** July 13, 2016**PAGE:** 3 of 4**BACKGROUND:****Summary (Continued)**

With certainty, there is no possibility that the project may have a significant effect on the environment. The project, as proposed, is limited to the upgrade of existing equipment within an existing facility to meet code compliance. The use of the facility would not change, would not require any expansion of service or facilities, and would not result in an increase in capacity or intensity of use. Therefore, the project is exempt as the project meets the scope and intent of the Common Sense Exemption identified in Section 15061 (b)(3) and Class 1 Categorical Exemption identified in Section 15301.

**Impact on Citizens and Businesses**

The RUHS MC ED Decon Showers Upgrade project will provide a benefit to the public safety of the citizens of Riverside County, as well as assisting with RUHS Trauma Certification.

**Contract History and Price Reasonableness**

In accordance with the EZIQC contract, Vincor provided a responsible and responsive proposal for the project. Cost reasonableness is achieved through the fair market value of the construction goods and services established in the Construction Task Catalogue.

**Additional Fiscal Information**

The approximate allocation of the project budget is as follows:

PROJECT BUDGET LINE ITEMS	BUDGET CATEGORY	PROJECT BUDGET AMOUNT
Architectural Design	1	38,660
Construction Management	2	6,500
Construction Contract	3	79,131
Construction Inspection	4	0
Project Management	5	21,000
Fixtures, Furnishings, Equipment	6	0
Other Soft Costs / Specialty Consultants	7	37,830
Project Contingency	8	18,312
Minor Construction	9	0
<b>Project Budget</b>		<b>\$ 201,433</b>

(Continued)

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Economic Development Agency

**FORM 11:** Riverside University Health System - Medical Center Emergency Department Decontamination Showers Upgrade Project - California Environmental Quality Act Exempt, Approve a Project Budget and Construction Contract with Vincor Construction, Inc., District 5, [\$201,433], RUHS Enterprise Fund 40050 - 100%

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**Additional Fiscal Information (Continued)**

All costs associated with this project will be expended in FY 2016/17 and are 100% funded through the RUHS Enterprise Fund 40050; thus no departmental budget adjustment is required at this time. The budget has been counted as RUHS Capital Improvement Project.

**Attachments:**

Plans and Specifications

Construction Contract with Vincor Construction, Inc.



**EZIQC WORK ORDER  
CONSTRUCTION CONTRACT  
BETWEEN COUNTY AND CONTRACTOR**

by and between

**THE COUNTY OF RIVERSIDE**

(the "County")

And

**VINCOR CONSTRUCITON, INC.**

(the "Contractor")

FOR:

**RIVERSIDE UNIVERSITY HEALTH SYSTEM-MEDICAL CENTER  
DECON SHOWERS UPGRADE PROJECT  
WORK ORDER NO. EZIQC-VCI-FM08430006655**

LOCATED AT:

**26520 CACTUS AVENUE,  
MORENO VALLEY, CA 92555**

JUL 26 2016 3-24

**EZIQC WORK ORDER CONSTRUCTION CONTRACT FOR EZIQC**  
**BETWEEN COUNTY AND CONTRACTOR**

**THIS EZIQC WORK ORDER CONSTRUCTION CONTRACT BETWEEN COUNTY AND CONTRACTOR** ("Work Order Agreement") is entered into as of the date of the last signature on the signature page of this contract, by and between **THE COUNTY OF RIVERSIDE**, a political subdivision of the State of California ("County") and Vincor Construction, Inc., a Corporation ("Contractor"), whose principal place of business is located at 2707 Saturn Road, Brea, CA 92821.

**ARTICLE 1**  
**DEFINITIONS**

Capitalized terms used in the Contract Documents shall have the meanings assigned to them in the Supplementary General Conditions. If not defined in the Supplementary General Conditions, they shall have the meanings assigned to them elsewhere in the Contract Documents. If not defined in the Supplementary 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 One Hundred Eighty (180) 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) Calendar 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 Supplementary 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 Supplementary General Conditions dealing with concurrency of Delays, the Contract Price shall be increased by Change Order or Unilateral Change Order in the amount of Five Hundred Dollars (\$500) 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 Supplementary 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 ~~Seventy Nine Thousand, One Hundred Thirty One~~ Dollars (\$79,131).

**4.1.2 Basis.** The Contract Price set forth in Paragraph 4.1.1, above, is based on the Work Order submitted by Contractor and accepted by County as set forth in Section 4.2, below. This Work Order Agreement is the Purchase Order issued by an NJPA member as referenced in the Indefinite Quantity Construction Agreement between the Contractor and NJPA; and, as that document states, any Purchase Order issued by an NJPA member including terms and conditions and supplemental specs shall govern.

**4.1.3 Adjustments.** The Contract Price is only subject to adjustment as permitted by the Supplementary 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
N/A	N/A	N/A

#### 4.3 UNIT PRICES

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

Description	Measurement Unit	Dollar Amount
N/A	N/A	N/A

### 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 EZIQC Work Order Construction Contract Between County and Contractor.

**5.1.2 General Conditions.** The Contract Documents include the ☒ NJPA IQCC Standard Terms and Conditions and Contract General Conditions (Book 2), ☒ Supplementary General Conditions of the Standard Form of Construction Contract for EZIQC Between County and Contractor (Long Form) or ☐ Supplementary General Conditions of the Work Order Construction Contract Between County and Contractor (Short Form).

**5.1.3 Specifications.** The Contract Documents include the following Specifications:

Title	Date	Divisions
RUHS - MC Decon Showers Upgrade	09/2015	260000 -Electrical

**5.1.4 Drawings.** The Contract Documents include the following Drawings dated September 16, 2015 and January 20, 2016 unless a different date is shown below:

Sheet Number	Title	Date	Pages
All sheets included in the referenced drawing set	RUHS Decon Showers Upgrade	09/16/2015	Thirteen (13) plan sheets

**5.1.5** Also incorporated herein are:

- 5.1.5.1. NJPA Membership Agreement (executed)
- 5.1.5.2. NJPA Indefinite Quantity Construction Agreement
- 5.1.5.3. NJPA Invitation to bid (IFB) Documents
- 5.1.5.4. NJPA Project Information, Instructions to Bidders and Execution Documents (Book 1)
- 5.1.5.5. EZIQC Work Order & Detailed Scope Documents

**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]

**"COUNTY"**

COUNTY OF RIVERSIDE

By:  Dated JUL 26 2016

JOHN J. BENOIT  
Chairman, Board of Supervisors

**ATTEST:**

KECIA HARPER-IHEM  
Clerk of the Board

By:  Dated JUL 26 2016  
Deputy

(SEAL)

**APPROVED AS TO FORM:**  
GREGORY P. PRIAMOS  
County Counsel

By:  Dated 7/11/16  
Marsha L. Victor  
Principal Deputy County Counsel

**"CONTRACTOR"**

Vincor Construction, Inc.

(sign on line above)

By: Vincent Cortes  
(type name)

Title: President

The following information must be provided concerning the Contractor:

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

If "other", enter legal form of business:

Enter address:  
2707 Saturn Street  
Brea CA 92821

Telephone: 714-528-2900  
Facsimile: 714-528-2901  
Email: vincent@vincorinc.com

Employer State  
Tax ID #: 05-0589192

State Contractor License #: 763743

DIR Registration #: 1000009803

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

If Contractor is a corporation, state:  
Name of President: Vincent Cortes  
Name of Secretary: Michele Cortes  
State of Incorporation: California

EXECUTED IN FOUR ORIGINAL COUNTERPARTS

Bond No. S001-2631

**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 has awarded Construction Contract Number EZIQC-VCI-FM08430006655 ("Contract") to Vincor Construction, Inc. as Principal ("Principal") to perform the work ("Work") for the Riverside University Health System-Medical Center Decon Showers Upgrade project;

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 Allied World 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 Seventy Nine Thousand One Hundred Thirty One Dollars and no/ cents ----- Dollars (\$ 79,131.00), 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.

07-28-15



## Allied World Surety

Division of Allied World Insurance Company  
30 S. 17<sup>th</sup> St., Suite 810  
Philadelphia, PA 19103

### POWER OF ATTORNEY

Issue Date: May 11, 2016

No. 42587-A1124

Single Transaction Limit: \$10,000,000

#### KNOW ALL MEN BY THESE PRESENTS:

Allied World Insurance Company, a New Hampshire corporation (the "Company") does hereby appoint

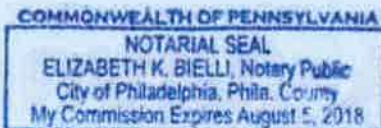
NAME(s): Monica Blaisdell

FIRM: Blaisdell Bonding and Insurance Services, Inc. 770 S. Brea Blvd. Suite 205 Brea, CA 92821

Its true and lawful Attorney(s)-in-Fact, with full authority to execute on its behalf bonds, undertakings, recognizances and other contracts of indemnity and writings obligatory in the nature thereof, issued in the course of its business, and to bind the Company thereby. This Power of Attorney shall remain in full force and effect for one year from the issued date above-referenced and shall expire on close of business of the first anniversary of such Issue Date.

IN WITNESS WHEREOF, ALLIED WORLD INSURANCE COMPANY has caused these presents to be executed by the officer named below, who is duly authorized and empowered to execute on the Company's behalf.

This 11th day of May, 2016



Title: Senior Vice President - Surety

State of Pennsylvania )  
County of Philadelphia )ss.

On this 11th day of May, 2016, before me came the above-named officer of ALLIED WORLD INSURANCE COMPANY, to me personally known to be the individual and officer described herein, and acknowledged that he executed the foregoing instrument and affixed the seals of said corporation thereto by authority of his office.

Notary  
My Commission Expires: 08/05/2018

#### CERTIFICATE

Excerpt of Resolution adopted by the Board of Directors of the ALLIED WORLD INSURANCE COMPANY (the "Corporation"), on December 31, 2012:

RESOLVED, that the proper officers of the Corporation, the head of the surety business line for the Corporation and their appointed designees (each an "Authorized Officer" and collectively, the "Authorized Officers") be, and each hereby is, authorized to appoint one or more Attorneys-in-Fact to represent and act for and on behalf of the Corporation in the transaction of the Corporation's surety business to execute (under the common seal of the Corporation, if appropriate) bonds, undertakings, recognizances and other contracts of indemnity and writings obligatory in the nature thereof.

RESOLVED, that in connection with the Corporation's transaction of surety business, the signatures and attestations of the Authorized Officers and the seal of the Corporation may be affixed to any such Power of Attorney or to any certificate relating thereto by facsimile, and any such Power of Attorney or certificate bearing such facsimile signatures or facsimile seal shall be valid and binding upon the Corporation when so affixed with respect to any bond, undertaking, recognizance or other contract of indemnity or writing obligatory in the nature thereof.

RESOLVED, that in connection with the Corporation's transaction of surety business, the facsimile or mechanically reproduced signature of any Authorized Officer, whether made heretofore or hereafter, wherever appearing upon a copy of any Power of Attorney of the Corporation, with signatures affixed as next above noted, shall be valid and binding upon the Corporation with the same force and effect as though manually affixed.

RESOLVED, that in connection with the Corporation's transaction of surety business, any such Attorney-in-Fact delivering a secretarial or other certification that the foregoing resolutions still be in effect may insert in such certification the date thereof, said date to be not later than the date of delivery thereof by such Attorney-in-Fact.

RESOLVED, that the Authorized Officers be, and each hereby is, authorized to execute (under the common seal of the Corporation, if appropriate), make, file and deliver in the name and on behalf of the Corporation any and all consents, certificates, agreements, amendments, supplements, instruments and other documents whatsoever, and do any and all other things whatsoever in connection with the Corporation's transaction of surety business, as such Authorized Officer shall in his or her absolute discretion deem or determine appropriate and any of the foregoing resolutions, the transactions contemplated thereby and any ancillary matters thereto and/or to carry out the purposes and intent thereof, such deeming or determination to be conclusively evidenced by any such execution or the taking of any such action by such Authorized Officer.

I, Daniel Zharkovsky, Secretary of the ALLIED WORLD INSURANCE COMPANY, do hereby certify that the foregoing excerpts of Resolution adopted by the Board of Directors of this corporation, and the Power of Attorney issued pursuant thereto, are true and correct, and that both the Resolution and the Power of Attorney are in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the facsimile seal of the corporation, this 30 day of June, 2016

Daniel Zharkovsky, AVP, Assistant General Counsel



**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

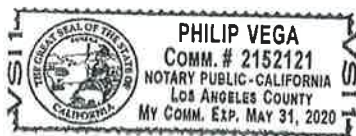
State of California )

County of ORANGE )On 6/30/2016 before me, PHILIP VEGA, NOTARY PUBLIC  
Date Here Insert Name and Title of the Officerpersonally appeared MONICA BLAISDELL  
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person~~(s)~~ whose name~~(s)~~ is/~~are~~ subscribed to the within instrument and acknowledged to me that ~~he~~/she/~~they~~ executed the same in ~~his~~/her/~~their~~ authorized capacity~~(ies)~~, and that by ~~his~~/her/~~their~~ signature~~(s)~~ on the instrument the person~~(s)~~ or the entity upon behalf of which the person~~(s)~~ acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature \_\_\_\_\_  
Signature of Notary Public

Place Notary Seal Above

**OPTIONAL**

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

**Description of Attached Document**

Title or Type of Document: \_\_\_\_\_ Document Date: \_\_\_\_\_

Number of Pages: \_\_\_\_\_ Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer(s)**

Signer's Name: \_\_\_\_\_

☐ Corporate Officer — Title(s): \_\_\_\_\_☐ Partner — ☐ Limited ☐ General☐ Individual ☐ Attorney in Fact☐ Trustee ☐ Guardian or Conservator☐ Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_

Signer's Name: \_\_\_\_\_

☐ Corporate Officer — Title(s): \_\_\_\_\_☐ Partner — ☐ Limited ☐ General☐ Individual ☐ Attorney in Fact☐ Trustee ☐ Guardian or Conservator☐ Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

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State of California )

County of ORANGE )

On 6/30/16 before me, Monica Blaisdell, Notary Public  
Date Here Insert Name and Title of the Officer

personally appeared Michele Cortes  
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature

Monica Blaisdell

Signature of Notary Public

Bond No. S001-2631

## **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 has awarded Construction Contract Number EZIQC-VCI-FM08430006655 ("Contract") to Vincor Construction, Inc. as Principal ("Principal") to perform the work ("Work") for the Riverside University Health System-Medical Center Decon Showers Upgrade project, 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 Allied World 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 Seventy Nine Thousand One Hundred Thirty One Dollars and no / cents Dollars (\$ 79,131.00 ), 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



Vincor Construction, Inc.

(Firm Name – Principal)

2707 Saturn Street

Brea, CA 92821

(Business Address)

By

(Original Signature)

Michele Cortes, CFO

(Title)

Allied World Insurance Company

(Corporation Name – Surety)

30 S. 17th Street Suite 810

Philadelphia, PA 19103

(Business Address)

By

(Signature – Attached Notary's Acknowledgment)

Monica Blaisdell (Attorney-In-Fact)

ATTORNEY-IN-FACT

(Title-Attach Power of Attorney)



Affix Corporate Seal

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



**Allied World Surety**  
 Division of Allied World Insurance Company  
 30 S. 17<sup>th</sup> St., Suite 810  
 Philadelphia, PA 19103

## POWER OF ATTORNEY

Issue Date: May 11, 2016

No. 42587-A1119

Single Transaction Limit: \$10,000,000

### KNOW ALL MEN BY THESE PRESENTS:

Allied World Insurance Company, a New Hampshire corporation (the "Company") does hereby appoint

NAME(s): Monica Blaisdell

FIRM: Blaisdell Bonding and Insurance Services, Inc. 770 S. Brea Blvd. Suite 205 Brea, CA 92821

Its true and lawful Attorney(s)-in-Fact, with full authority to execute on its behalf bonds, undertakings, recognizances and other contracts of indemnity and writings obligatory in the nature thereof, issued in the course of its business, and to bind the Company thereby. This Power of Attorney shall remain in full force and effect for one year from the issued date above-referenced and shall expire on close of business of the first anniversary of such Issue Date.

IN WITNESS WHEREOF, ALLIED WORLD INSURANCE COMPANY has caused these presents to be executed by the officer named below, who is duly authorized and empowered to execute on the Company's behalf.

This 11th day of May, 2016



Title: Senior Vice President - Surety

State of Pennsylvania )  
 County of Philadelphia )ss.

On this 11th day of May, 2016, before me came the above-named officer of ALLIED WORLD INSURANCE COMPANY, to me personally known to be the individual and officer described herein, and acknowledged that he executed the foregoing instrument and affixed the seals of said corporation thereto by authority of his office.

Notary  
 My Commission Expires: 08/05/2018

### CERTIFICATE

Excerpt of Resolution adopted by the Board of Directors of the ALLIED WORLD INSURANCE COMPANY (the "Corporation"), on December 31, 2012:

RESOLVED, that the proper officers of the Corporation, the head of the surety business line for the Corporation and their appointed designees (each an "Authorized Officer" and collectively, the "Authorized Officers") be, and each hereby is, authorized to appoint one or more Attorneys-in-Fact to represent and act for and on behalf of the Corporation in the transaction of the Company's surety business to execute (under the common seal of the Corporation, if appropriate) bonds, undertakings, recognizances and other contracts of indemnity and writings obligatory in the nature thereof.

RESOLVED, that in connection with the Corporation's transaction of surety business, the signatures and attestations of the Authorized Officers and the seal of the Corporation may be affixed to any such Power of Attorney or to any certificate relating thereto by facsimile, and any such Power of Attorney or certificate bearing such facsimile signatures or facsimile seal shall be valid and binding upon the Corporation when so affixed with respect to any bond, undertaking, recognizance or other contract of indemnity or writing obligatory in the nature thereof.

RESOLVED, that in connection with the Corporation's transaction of surety business, the facsimile or mechanically reproduced signature of any Authorized Officer, whether made heretofore or hereafter, wherever appearing upon a copy of any Power of Attorney of the Corporation, with signatures affixed as next above noted, shall be valid and binding upon the Corporation with the same force and effect as though manually affixed.

RESOLVED, that in connection with the Corporation's transaction of surety business, any such Attorney-in-Fact delivering a secretarial or other certification that the foregoing resolutions still be in effect may insert in such certification the date thereof, said date to be not later than the date of delivery thereof by such Attorney-in-Fact.

RESOLVED, that the Authorized Officers be, and each hereby is, authorized to execute (under the common seal of the Corporation, if appropriate), make, file and deliver in the name and on behalf of the Corporation any and all consents, certificates, agreements, amendments, supplements, instruments and other documents whatsoever, and do any and all other things whatsoever in connection with the Corporation's transaction of surety business, as such Authorized Officer shall in his or her absolute discretion deem or determine appropriate and any of the foregoing resolutions, the transactions contemplated thereby and any ancillary matters thereto and/or to carry out the purposes and intent thereof, such deeming or determination to be conclusively evidenced by any such execution or the taking of any such action by such Authorized Officer.

I, **Daniel Zharkovsky**, Secretary of the ALLIED WORLD INSURANCE COMPANY, do hereby certify that the foregoing excerpts of Resolution adopted by the Board of Directors of this corporation, and the Power of Attorney issued pursuant thereto, are true and correct, and that both the Resolution and the Power of Attorney are in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the facsimile seal of the corporation, this 30 day of June, 2016

Daniel Zharkovsky, AVP, Assistant General Counsel

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

CIVIL CODE § 1189

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State of California )

County of ORANGE )On 6/30/2016 before me, PHILIP VEGA, NOTARY PUBLIC

Date

Here Insert Name and Title of the Officer

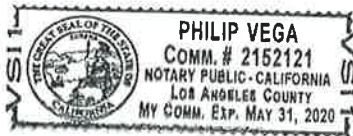
personally appeared MONICA BLAISDELL

Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature \_\_\_\_\_

Signature of Notary Public

Place Notary Seal Above

**OPTIONAL**

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

**Description of Attached Document**

Title or Type of Document: \_\_\_\_\_ Document Date: \_\_\_\_\_

Number of Pages: \_\_\_\_\_ Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer(s)**

Signer's Name: \_\_\_\_\_

☐ Corporate Officer — Title(s): \_\_\_\_\_☐ Partner — ☐ Limited ☐ General☐ Individual ☐ Attorney in Fact☐ Trustee ☐ Guardian or Conservator☐ Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_

Signer's Name: \_\_\_\_\_

☐ Corporate Officer — Title(s): \_\_\_\_\_☐ Partner — ☐ Limited ☐ General☐ Individual ☐ Attorney in Fact☐ Trustee ☐ Guardian or Conservator☐ Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

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State of California )

County of ORANGE )

On 6/30/16 before me, Monica Blaisdell, Notary Public  
Date Here Insert Name and Title of the Officer

personally appeared Michele Cortes  
Name(s) of Signer(s)

who proved to me on the basis of ~~satisfactory evidence~~ to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature

Monica Blaisdell

Signature of Notary Public



CALIFORNIA  
DEPARTMENT OF INSURANCE

## Company Profile

Company Search

Company  
Information

Old Company  
Names

Agent for Service

Reference  
Information

NAIC Group List

Lines of Business

Workers'

Compensation

Complaint and

Request for

Action/Appeals

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Financial Statements  
PDF's

Annual Statements

Quarterly  
Statements

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Company  
Performance &  
Comparison Data

Company  
Enforcement Action

Composite  
Complaints Studies

Additional Info

Find A Company  
Representative In  
Your Area

View Financial  
Disclaimer

## COMPANY PROFILE

### Company Information

#### ALLIED WORLD INSURANCE COMPANY

199 WATER STREET, 24TH FLOOR  
NEW YORK, NY 10038

### Old Company Names

### Effective Date

ALLIED WORLD REINSURANCE COMPANY	05/22/2013
CONVERIUM INSURANCE (NORTH AMERICA) INC.	04/29/2009
RE CAPITAL REINSURANCE CORPORATION	12/28/1995
ZC INSURANCE COMPANY	08/16/2002

### Agent For Service

KARISSA LOWRY  
2710 GATEWAY OAKS DRIVE  
SUITE 150N  
SACRAMENTO CA 95833

### Reference Information

NAIC #:	22730
California Company ID #:	3186-4
Date Authorized in California:	12/21/1988
License Status:	UNLIMITED-NORMAL
Company Type:	Property & Casualty
State of Domicile:	NEW HAMPSHIRE

[back to top](#)

### NAIC Group List

NAIC Group #: 3239 Allied World Assur Holding Grp

### Lines Of Business

The company is authorized to transact business within these lines of insurance.  
For an explanation of any of these terms, please refer to the glossary.

AIRCRAFT  
AUTOMOBILE  
BOILER AND MACHINERY  
BURGLARY  
COMMON CARRIER LIABILITY  
CREDIT  
FIRE  
LIABILITY

MARINE  
MISCELLANEOUS  
PLATE GLASS  
SPRINKLER  
SURETY  
TEAM AND VEHICLE  
WORKERS' COMPENSATION

**back to top**

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## **DECLARATION OF SUFFICIENCY OF FUNDS**

(California Labor Code Section 2810)

I, the undersigned, an authorized representative of Vincor Construction Inc ("Contractor") with authority to make the statements contained in this Declaration on behalf of the Contractor, hereby declare the following:

1. The Contractor's employer identification number for state tax purposes is 05-0589192.

2. The Contractor's workers' compensation insurance policy number is 9138890-15 and the name, address, and telephone number of the insurance carrier providing said insurance is: Pacific Lighthouse Ins Agency for State Compensation Insurance Fund  
657-667-0225.

3. The following information is provided concerning any and all vehicles that are owned by the Contractor and that will be used for transportation in connection with any service provided for the performance of the Work that is the subject of the Contract [Insert information requested. Attach additional sheets, if needed.]:

<b>Vehicle</b>	<b>Vehicle ID #</b>	<b>Vehicle Liability Insurance Policy Number (of policy covering vehicle)</b>	<b>Name, Address and Telephone Number of Vehicle Liability Insurance Carrier (issuing policy covering vehicle)</b>
Chevy Silverado	8Y07515	ACP BA 3016638991	Nationwide Mutual Ins Co
Chevy Volt	6WRD530	ACP BA 3016638991	Nationwide Mutual Ins Co

4. The following is the address of any real property that will be used to house workers in connection with the performance of the Work that is the subject of the Contract [If no such housing will be provided, enter "none"]:  
none

5. The actual or estimated number of workers that will be employed to perform the Work that is the subject of the Contract, the total amount of wages to be paid to said workers, and the dates on which said wages will be paid are as follows [Attach additional sheets, if needed.]:

<b>Total Number of Workers</b>	<b>Total Amount of Wages</b>	<b>Date(s) for Payment of Wages</b>
3	12,000.00	July 2016

6. Check only one of the following boxes, as applicable:

☐ The statement of number of workers declared in Paragraph 5, above, is a statement of the actual number of workers that will be employed.

☒ The actual number of workers requested in Paragraph 5, above, is unknown and therefore the statement of number of workers declared therein is based on the Contractor's best estimate available at the time of submitting its Proposal, rather than the actual number of workers that will be employed and if and when the actual number of workers and the other information requested above is available, it will be reported to the County of Riverside by Bidder in writing.

7. The actual or estimated total number of persons who will be utilized as independent contractors to perform the Work of the Project that is the subject of the Contract (together with their known, current local, state, and federal contractor license identification numbers that each is required to have under local, state or federal laws or regulations) are as follows [Attach additional sheets, if needed.]:

<b>List of Independent Contractors</b>	<b>Current, local, state and federal contractor license identification number</b>

8. Check only one of the following boxes, as applicable:

☐ The statement of number of independent contractors declared in Paragraph 7, above, is a statement of the actual number of independent contractors that will be utilized.

☒ The actual number of independent contractors requested in Paragraph 7, above, is unknown and therefore the statement of number of independent contractors declared therein is based on the Contractor's best estimate available at the time of submitting its Proposal, rather than the actual number of independent contractors that will be utilized, and if and when the actual number of independent



contractors and the other information requested above is available, it will be reported to the County of Riverside by Bidder in writing.

I, the undersigned, declare under penalty of perjury that the foregoing statements are within my personal knowledge and are true and correct. Executed on this 1st day of July, in the year 2016 at Brea, California.



(signature)

Vincent Cortes

Type Name of Signer:

Vincor Construction Inc

Type Name of Bidder:

**CONTRACTOR'S CERTIFICATE REGARDING WORKERS'**  
**COMPENSATION**

Labor Code Section 3700 states:

"Every employer except the state shall secure the payment of compensation in one or more of the following ways:

(a) By being insured against liability to pay compensation by one or more insurers duly authorized to write compensation insurance in this state.

(b) By securing from the Director of Industrial Relations a certificate of consent to self-insure either as an individual employer, or as one employer in a group of employers, which may be given upon furnishing proof satisfactory to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to his or her employee.

(c) For any county, city, city and county, municipal corporation, public district, public agency, or any political subdivision of the state, including each member of a pooling arrangement under a joint exercise of powers agreement (but not the state itself), by securing from the Director of Industrial Relations a certificate of consent to self-insure against workers' compensation claims, which certificate may be given upon furnishing proof satisfactory to the director of ability to administer workers' compensation claims properly, and to pay workers' compensation claims that may become due to its employees. On or before March 31, 1979, a political subdivision of the state which, on December 31, 1978, was uninsured for its liability to pay compensation, shall file a properly completed and executed application for a certificate of consent to self-insure against workers' compensation claims. The certificate shall be issued and be subject to the provisions of Section 3702.

For purposes of this section, 'state' shall include the superior courts of California."

I am aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract.

\_\_\_\_\_  
Vincor Construction, Inc.

(Name of Contractor)

\_\_\_\_\_  
PRESIDENT

By:

\_\_\_\_\_  
VINCENT CORTES

(Name of Signer)

\_\_\_\_\_  


(Signature)

(In accordance with Article 5 (commencing at Section 1860), Chapter 1, Part 7, Division 2 of the Labor Code, the above certificate must be signed and filed with the awarding body prior to performing any work under this contract.)

07-28-15



**Work Order Signature Document**

**EZIQC Contract No.: CA-GC07C-082013-VCI**

☒

**New Work Order**

☐

**Modify an Existing Work Order**

Work Order #: eziQC-VCI-FM08430006655

Work Order Date: 03/24/2016

Work Order Title: RUMS-ED Decon-Showers

Owner Name: EDA County of Riverside

Contractor Name: Vincor Construction Inc.

Contact: Nahid Selbe

Contact: John Kang

Phone: 951-955-4728

Phone: 714-990-4200

**Work to be Performed**

Work to be performed as per the Final Detailed Scope of Work Attached and as per the terms and conditions of NJPA EZIQC Contract No CA-GC07C-082013-VCI.

**Brief Work Order Description:**

RUMS-ED Decon-Showers

**Time of Performance**

Estimated Start Date: 06/13/2016

Estimated Completion Date: 09/16/2016

**Liquidated Damages**

Will apply:

☒

Will Not apply:

☐

**Work Order Firm Fixed Price: \$79,130.35**

**Detailed Scope of Work**

**To:** John Kang  
Vincor Construction Inc.  
2707 Saturn St.  
Brea, CA 92821  
P. 714-528-2900

**From:** Nahid Selbe  
EDA County of Riverside  
3403 Tenth St. Suite 500  
Riverside, CA 92501  
951-955-4728

**Date Printed:** March 24, 2016  
**Work Order #:** eziQC-VCI-FM08430006655  
**Work Order Title:** RUMS-ED Decon-Showers  
**Brief Scope:** RUMS-ED Decon-Showers

☐**Preliminary**☐**Revised**☒**Final**

The following items detail the scope of work as discussed at the site. All requirements necessary to accomplish the items set forth below shall be considered part of this scope of work.

**Demolition:**

1. Saw cut, Demo and remove existing concrete sidewalk approx. 15'L x 3'W and sump pump enclosure for removal of existing conduit.
2. Demo stucco ceiling as needed to install new hanger supports for existing curtain track.
3. Demo stucco ceiling 1' x 1' for (4) new HSS supports for curtain track enclosure.
4. Demo Stucco ceiling 24" x 24" for (2) new Ceiling access panels.
5. Demo Stucco wall 9'H x 4' W for backing installation at 3 locations for existing curtain track enclosure.
6. Demo Stucco Wall 6'H x 4'W for backing installation for new Mixing Valve enclosure.
7. Demo existing mixing Valve enclosure and non-conforming conduit.

**Plumbing:**

8. Remove and reinstall existing mixing valve and recirculating pump in mixing valve enclosure including all unions and piping and provide chlorination.
9. Provide (4) Stainless steel pull rods for Emergency Shower.
10. Provide signage indicating Operation Instructions as indicated on P2-1.
11. Provide (2) engraved description labels for decontamination tank lids.
12. Remove and Reinstall existing sump pump as needed.
13. Remove Wire mesh screens on existing trench drain and provide new wire mesh screen.
14. Provide backing for existing 6 unit-strut supports for existing shower plumbing installed on ceiling.

**Electrical:**

15. Remove existing mixing valve enclosure and install new stainless steel enclosure as indicated on P2-1.
16. Remove power for mixing valve, recirculating pump, and existing duplex receptacle in existing mixing valve enclosure and -reinstall existing mixing valve, recirculating pump and existing duplex receptacle in new mixing valve enclosure.
17. Install new ¾" PVC conduit in concrete and ¾" EMT Conduit for existing Sump Pump as indicated on E2-1.

**Construction:**

18. Pour new concrete sidewalk with #4 rebar and moisture barrier where existing concrete was removed for new conduit work for Sump Pump.
19. Footing for Curb for Shower enclosure will be exposed to see if it exists. If no footing exists then curb will be demoed and repoured with Footing.
20. Install new sump pump enclosure for existing Sump Pump.
21. Power wash stucco ceiling, walls and concrete floor.
22. Sand Blast concrete shower floor for prep for epoxy painting.

**Detailed Scope of Work Continued..**

**Work Order #:** eziQC-VCI-FM08430006655  
**Work Order Title:** RUMS-ED Decon-Showers

- 
23. Provide and install 1/2" leveler for chips in concrete shower floor and to ensure proper drainage.
  24. Prime and epoxy paint Concrete shower floor.
  25. Hand scrape and Paint existing Shower Curb.
  26. Install backing for shower curtain enclosure and new mixing valve enclosure.
  27. Install new HSS supports for shower curtain enclosure.
  28. Install hanger supports and c channel (Facilities has verified C Channel is not existing) for existing curtain track.
  29. Repair all stucco that was demoed for Backing installation and HSS support installation.
  30. Prime all new stucco, existing metal doors, and new HSS supports.
  31. Repair stucco cracks in curtain track enclosures.
  32. Paint entire stucco ceiling, stucco wall where backing was installed, curtain track enclosures, curtain track enclosure doors and HSS Supports for curtain track enclosure.
  33. Stencil paint "Decontamination Station" "Warm" and two red arrows in Shower area that are faded. (not shown on plans but verified onsite).
  34. Install (2) Access panels in stucco ceiling.
  35. Build Containment area During construction to lessen impact on ED activities and to eliminate possibility of contamination of ED Facility.

**Clarifications:**

Any additional work due to unforeseen and non-conforming conditions will be treated as a supplemental work order.

**Warranties:**

The Contractor agrees to provide all warranties described in the contract documents, project Specifications titled, RCRMC ED Decontamination Facility and dated, September 16, 2015 as well as all warranty work required by the State Contractor's License Board.

Also, special or extended warranties included in this Work Order are listed below and included in the contract:

No special or extended warranties are part of this work order.

**Approvals**

As per Associated Standard Form of Construction Contract Between County & Contractor.

Signatures below acknowledge review..

_____ Contractor		7/7/16 _____ Date
---------------------	---	-------------------------

 Owner - Project Manager	7.7.2016 _____ Date	
--	---------------------------	--

## Contractor's Price Proposal - Summary

**Date:** March 24, 2016

**Re:** IQC Master Contract #: CA-GC07C-082013-VCI  
Work Order Number: ezIQC-VCI-FM08430006655  
NJPA Number: 037779.00  
Title: RUMS-ED Decon-Showers  
Contractor: Vincor Construction Inc.  
Proposal Value: \$79,130.35

<b>01 - General Requirements</b>	<b>\$21,222.04</b>
<b>02 - Site Work</b>	<b>\$3,352.70</b>
<b>03 - Concrete</b>	<b>\$6,408.94</b>
<b>05 - Metals</b>	<b>\$5,427.25</b>
<b>07 - Thermal &amp; Moisture Protection</b>	<b>\$61.91</b>
<b>08 - Openings</b>	<b>\$499.93</b>
<b>09 - Finishes</b>	<b>\$21,747.60</b>
<b>10 - Specialties</b>	<b>\$949.91</b>
<b>12 - Furnishings</b>	<b>\$1,619.61</b>
<b>13 - Special Construction</b>	<b>\$77.27</b>
<b>22 - Plumbing</b>	<b>\$3,478.08</b>
<b>23 - Heating, Ventilating, and Air-Conditioning (HVAC)</b>	<b>\$3,977.71</b>
<b>26 - Electrical</b>	<b>\$298.85</b>
<b>31 - Earthwork</b>	<b>\$542.08</b>
<b>32 - Exterior Improvements</b>	<b>\$6,086.34</b>
<b>33 - Utilities</b>	<b>\$3,380.13</b>
<b>Proposal Total</b>	<b>\$79,130.35</b>

This total represents the correct total for the proposal. Any discrepancy between line totals, sub-totals and the proposal total is due to rounding.

**The Percentage of NPP on this Proposal:** 1.21%

**MEMBERSHIP AGREEMENT  
PARTICIPATING MEMBER**



This Agreement, made and entered into this 1 day of September, 2011,  
by and between National Joint Powers Alliance®, hereinafter referred to as "NJPA" and  
County of Riverside, CA hereinafter referred to as the "Applicant".

**Witnesseth:**

That for a good and valuable consideration of the premises, mutual terms, covenants, provisions, and conditions hereafter set forth, it is agreed by and between the parties as follows:

*Whereas, the NJPA is created by Minnesota Statute §123A.21 (with membership further defined in M.S. §471.59) to serve cities, counties, towns, public or private schools, political subdivisions of Minnesota or another state, another state, any agency of the State of Minnesota or the United States including instrumentalities of a governmental unit and all non-profits; and*

*Whereas, NJPA's purpose as defined in M.S. §123A.21 is to assist in meeting specific needs of clients which could be better provided by NJPA than by the members themselves; and*

*Whereas, the NJPA Board of Directors has established the ability for an "Applicant" desiring to participate in NJPA contracts and procurement programs to become a Participating Member; and*

*Whereas, the NJPA Board of Directors has determined that Participating Members will have no financial or organizational liability to NJPA or to its organizational activities;*

**Now Therefore,** it is hereby stipulated and agreed that the "Applicant" Agency desires to be a Participating Member of NJPA with contract purchasing benefits, in accordance with terms and conditions of the applicable contract(s), and that NJPA hereby grants said Membership to said "Applicant."

**Term:**

This continuing agreement shall remain in force or until either party elects to dissolve the Agreement by written notice.

**THEREFORE, IN WITNESS THEREOF,**

the parties hereto have executed this Agreement the day and year written above.

**National Joint Powers Alliance®  
200 1st Street NE, Suite 1  
Staples, MN 56479**

**Member Name:**

By Bob Buster  
AUTHORIZED SIGNATURE  
**BOB BUSTER**  
**CHAIRMAN, BOARD OF SUPERVISORS**  
TITLE  
OCT 18 2011  
DATE

[Signature]  
AUTHORIZED SIGNATURE  
Executive Director  
TITLE  
9/1/11  
DATE

FORM APPROVED COUNTY COUNSEL  
BY: [Signature]  
**NEAL R. KIPNIS**  
DATE 9/22/11

09/21/2010

OCT 18 2011 3:13



INDEFINITE QUANTITY CONSTRUCTION AGREEMENT

IFB NUMBER: CA-GC07C-082013-VCI

GEOGRAPHIC AREA Riverside

This Agreement dated August 20, 2013, by and between the National Joint Powers Alliance, hereinafter referred to as NJPA and Vincor Construction, Inc. at the following address 218 Viking Avenue, Brea, CA 92821.

hereinafter referred to as the CONTRACTOR.

WITNESSETH: NJPA and CONTRACTOR for the consideration hereafter agree as follows:

ARTICLE 1. CONTRACT DOCUMENTS

- A. Contract Documents: This Agreement; the IFB Documents; (Book 1 - Project Information, Instructions to Bidders and Execution Documents; Book 2 - IQCC Standard Terms and Conditions and General Conditions; Book 3 - Construction Task Catalog (CTC), Book 4 - Technical Specifications) and Addenda thereto, the Bid Deposit, all payment and performance bonds (if any), material and workmanship bonds (if any); wage rate decisions and certified payroll records (if any); Notice of Award; all modifications issued thereto, including Supplemental Work Orders/Change Orders and written interpretations and all Purchase Orders and accompanying documents (Requests for Proposals, Detailed Scopes of Work, Work Order Proposal Packages, etc.) issued hereunder.
- B. The terms and conditions of a Purchase Order issued by an NJPA Member in connection with any Work Order, including supplemental technical specifications referenced therein, shall govern.



- C. The Contractor shall, within two (2) business days of receipt of a Purchase Order from an NJPA Member, provide notification to NJPA or their designated representative of each Purchase Order by forwarding a copy of the Purchase Order via email to PO@EZIQC.com or via facsimile to (864) 233-9100.
- D. The Contractor shall, within two (2) business days of sending an Invoice to an NJPA Member, provide notification to NJPA or their designated representative of each Invoice by forwarding a copy of the Invoice via email to Invoice@EZIQC.com or via facsimile to (864) 233-9100.

## ARTICLE 2. SCOPE OF WORK

- A. The Contractor shall provide the services required to develop each Work Order in accordance with the procedures for developing Work Orders set forth in the IQCC Standard Terms and Conditions and the Contract Documents.
- B. Each Work Order developed in accordance with this Agreement will be issued in connection with a Purchase Order by an individual NJPA Member. The Purchase Order will reference the Work Order and require the Contractor to perform the Detailed Scope of Work within the Work Order Completion Time for the Work Order Price.
- C. It is anticipated that the Contractor will perform Work primarily in the Geographic Area set forth above. However, the parties may agree that the Contractor can perform Work in a different Geographic Area at its current Adjustment Factors.

## ARTICLE 3. THE AGREEMENT PRICE

- A. This Agreement is an indefinite-quantity contract for construction/roofing work and services. The Estimated Annual Value of this Agreement is \$ 2,000,000. This is only an estimate and may increase or decrease at the discretion of the NJPA.
- B. The Contractor shall perform any or all Tasks in the Construction Task Catalog for the unit price appearing therein multiplied by the following Adjustment Factors:
  - a. The Contractor shall perform any or all Tasks in the Construction Task Catalog for the unit price appearing therein multiplied by the following Adjustment Factors **TO BE ENTERED BY NJPA**:
    - a. Normal Working Hours Prevailing Wage: Work performed from 7:00am until 4:00pm Monday to Friday, except holidays. Contractor shall perform Tasks during Normal Working Hours for the Unit Price set forth in the CTC multiplied by the Adjustment Factor of:

0.9730  
(Specify to four (4) decimal places)

- b. Other Than Normal Working Hours Prevailing Wage: Work performed from 4:00pm to 7:00am Monday to Friday, and any time Saturday, Sunday and Holidays. Contractor shall perform Tasks during Other Than Normal Working Hours for the Unit Price set forth in the CTC multiplied by the Adjustment Factor of:

0.9731  
(Specify to four (4) decimal places)

- c. Normal Working Hours Non Prevailing Wage: Work performed from 7:00am until 4:00pm Monday to Friday, except holidays. Contractor shall perform Tasks during Normal Working Hours for the Unit Price set forth in the CTC multiplied by the Adjustment Factor of:

0.8973  
(Specify to four (4) decimal places)

- d. Other Than Normal Working Hours Non Prevailing Wage: Work performed from 4:00pm to 7:00am Monday to Friday, and any time Saturday, Sunday and Holidays. Contractor shall perform Tasks during Other Than Normal Working Hours for the Unit Price set forth in the CTC multiplied by the Adjustment Factor of:

0.8974  
(Specify to four (4) decimal places)

- e. Non Pre-priced Adjustment Factor: To be applied to Work deemed not to be included in the CTC but within the general scope of the work:

1.1892  
(Specify to four (4) decimal places)

#### ARTICLE 4. TERM OF THE AGREEMENT

- A. The base term shall be one year with three one year options. The total term of the Contract shall not exceed four years. The Contractor may withdraw from the Agreement on each anniversary of the award, provided that the Contractor gives 60 Days written notice of its intent to withdraw. NJPA may, for any reason, terminate this Agreement at any time.
- B. All Purchase Orders issued during a term of this Agreement shall be valid and in effect notwithstanding that the Detailed Scope of Work may be performed, payments may be made, and the guarantee period may continue, after such term has expired. All terms and conditions of the Agreement apply to each Purchase Order.

## ARTICLE 5. SOFTWARE LICENSING

- A. NJPA selected The Gordian Group's (Consultant) software, data and services (IQCC System) for their IQCC program. The system includes Consultant's proprietary PROGEN®, eGordian® and/or ezIQCC® IQCC applications (IQCC Applications) and construction cost data (Construction Task Catalog®), which shall be used by the Contractor to prepare and submit Price Proposals, subcontractor lists, and other requirements specified by NJPA and NJPA Members. The Contractor shall be required to agree to Consultant's IQCC System License to obtain access to Consultant's IQCC Applications. The Contractor's use, in whole or in part, of Consultant's IQCC Applications and Construction Task Catalog and other proprietary materials provided by Consultant for any purpose other than to execute work under this Contract for NJPA and NJPA Members is strictly prohibited unless otherwise stated in writing by Consultant. The Contractor hereby agrees to abide by the terms of the following IQCC System License:

## ARTICLE 6. IQCC SYSTEM LICENSE

Consultant hereby grants to the Contractor, and the Contractor hereby accepts from Consultant for the term of this Contract or Consultant's contract with NJPA, whichever is shorter, a non-exclusive right, privilege, and license to Consultant's proprietary IQCC System and related proprietary materials (collectively referred to as "Proprietary Information") to be used for the sole purpose of executing Contractor's responsibilities to NJPA and NJPA Members under this Contract ("Limited Purpose"). The Contractor hereby agrees that Proprietary Information shall include, but is not limited to, Consultant's IQCC Applications and support documentation, Construction Task Catalog, training materials and any other proprietary materials provided to Contractor by Consultant. In the event this Contract expires or terminates as provided herein, or the Consultant's contract with NJPA expires or terminates, this IQCC System License shall terminate and the Contractor shall return all Proprietary Information in its possession to Consultant.

Contractor acknowledges that Consultant shall retain exclusive ownership of all proprietary rights to the Proprietary Information, including all U.S. and international intellectual property and other rights such as patents, trademarks, copyrights and trade secrets. Contractor shall have no right or interest in any portion of the Proprietary Information except the right to use the Proprietary Information for the Limited Purpose set forth herein. Except in furtherance of the Limited Purpose, Contractor shall not distribute, disclose, copy, reproduce, display, publish, transmit, assign, sublicense, transfer, provide access to, use or sell, directly or indirectly (including in electronic form), any portion of the Proprietary Information.

Contractor acknowledges and agrees to respect the copyrights, trademarks, trade secrets, and other proprietary rights of Consultant in the Proprietary Information during and after the term of this Agreement, and shall at all times maintain complete confidentiality with regard to the Proprietary Information provided to Contractor, subject to federal, state and local laws related to public disclosure. Contractor further acknowledges that a breach of any of the terms of this Agreement by Contractor will result in irreparable harm to Consultant for which monetary damages would be an inadequate remedy, and Consultant shall be entitled to injunctive relief (without the necessity of posting a bond) as well as all other monetary remedies available at law or

NATIONAL JOINT POWERS ALLIANCE®  
Book 1 – Project Information, Instructions to Bidders and Execution Documents

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equity. In the event that it becomes necessary for either party to this IQCC System License to enforce the provisions of this Agreement or to obtain redress for the breach or violation of any of its provisions, whether by litigation, arbitration or other proceedings, the prevailing party shall be entitled to recover from the other party all costs and expenses associated with such proceedings, including reasonable attorney's fees.

In the event of a conflict in terms and conditions between this IQCC System License and any other terms and conditions of this Agreement or any Job Order purchase order or similar purchasing document issued by NJPA or an NJPA Member, this IQCC System License shall take precedence.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

By:

National Joint Powers Alliance

  
Authorized Signature

Contractor VINCOR CONSTRUCTION MC

  
Authorized Signature

Vincent Cortes  
Print Name

Contract Number: CA-GC07C-D82013-VCI (assigned by NJPA)

**SUPPLEMENTAL GENERAL CONDITIONS OF**  
**THE STANDARD FORM NJPA IQC-WORK ORDER CONTRACT (EZIQC)**  
**BETWEEN COUNTY AND CONTRACTOR**

(LONG FORM)

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**SUPPLEMENTAL GENERAL CONDITIONS OF**  
**THE STANDARD FORM NJPA IQC-WORK ORDER CONTRACT (EZIQC)**  
**BETWEEN COUNTY AND CONTRACTOR**

(LONG FORM)

**ARTICLE 1**  
**GENERAL PROVISIONS**

**1.1 DEFINITIONS-GENERAL**

1.1.1 **Acceptance of a Work Order.** Acceptance is when the County determines all the requirements of an individual Work Order have been completed. Execution of the Notice of Completion will signify Acceptance. A copy of the Notice of Completion will be sent to the Contractor after execution by the County. Upon receipt of the Notice of Completion, the Contractor will be relieved of the duty of protecting the work, and the County will initiate final settlement and payment.

1.1.2 **Act of God.** "Act of God" means earthquake, natural flood, tornado or other unusually severe natural or weather phenomenon occurring at the Site and causing Delay to performance of the Work at the Site; provided, however, that precipitation and winds shall not be an Act of God unless it exceeds in any given month the 10-year average of monthly levels as established by the National Oceanic and Atmospheric Administration ("NOAA") according to NOAA's records of measurable precipitation and winds taken at NOAA's recording station located within the Riverside County basin area that is nearest to the Site.

1.1.3 **Addendum.** "Addendum" means written or graphic information (including, without limitation, Drawings or Specifications) issued prior to the NJPA Bid Closing Deadline, which modifies or interprets the Bidding Documents by additions, deletions, clarifications or corrections.

1.1.4 **Adjustment Factor.** The Contractor's competitively bid price adjustment to the unit prices as published in the Construction Task Catalog associated with the applicable NJPA bid process. All adjustment factors are expressed as an increase or decrease from the published prices.

1.1.5 **Admitted Surety.** "Admitted Surety" means a surety insurer that is duly certified pursuant to California Insurance Code §995.120 to transact business as a surety in the State of California.

1.1.6 **Applicable Laws.** "Applicable Laws" means all statutes, ordinances, rules, regulations, policies and guidelines enacted by Governmental Authorities (including, without limitation, Environmental Laws and Disability Laws), codes adopted or promulgated by Governmental Authorities (including, without limitation, building and health and safety codes), lawful orders of Governmental Authorities and common law, including, but not limited to, principles of equity applied by the courts of the State of California, which are in effect at the time the Work is performed.

1.1.7 **Application for Payment.** "Application for Payment" means Contractor's itemized application for Progress Payment or Final Payment prepared, submitted and substantiated in accordance with the requirements of the Contract Documents.

1.1.8 **Architect.** "Architect" means the design professional retained by County that is primarily responsible for the preparation of the Drawings and Specifications for the Project.

1.1.9 **Assistant CEO/EDA.** "Assistant CEO/EDA" means the Assistant CEO for the Economic Development Agency, or his/her designee.

1.1.10 **Award.** "Award" means either (1) a minute order duly adopted by the Board of Supervisors approving County's entering into the Construction Contract with Contractor or (2) execution of the Construction Contract by the Clerk of the Board.

1.1.11 **Bid.** "Bid" means the completed and signed Bid Form and other Bid Submittals submitted by a Bidder to the NJPA in response to the Invitation for Bids (IFB) and in accordance with the NJPA Instructions to Bidders.

1.1.12 **Bid Amount.** "Bid Amount" means the dollar amount of the Adjustment Factor that is used as the basis for determining which Bidder has submitted the lowest Bid price for purposes of Award pursuant to the NJPA's chosen method of Award set forth in the NJPA Contract Documents and Instructions to Bidders.

1.1.13 **Bid Bond.** "Bid Bond" means alternative form of Bid Security submitted by a Bidder that consists of a surety bond issued by a Surety in accordance with the NJPA Bidding and Contract Documents.

1.1.14 **Bid Closing Deadline.** "Bid Closing Deadline" means the deadline (date and time) for receipt of Bids by the NJPA that is stated in the NJPA Bidding and Contract Documents, as adjusted by Addendum.

1.1.15 **Bid Form.** "Bid Form" means the form prescribed by the NJPA Bidding Documents to be completed and signed by a Bidder showing the Adjustment Factor(s) of its Bid.

1.1.16 **Bid Security.** "Bid Security" means a deposit of cash, certified or cashier's check or bond submitted by a Bidder in accordance with the NJPA Bidding Documents guaranteeing that if Award is made to the Bidder, the Bidder will enter into the Construction Contract and furnish the Performance Bond and Payment Bond and other Post-Award Submittals in accordance with the NJPA and County Contract Documents.

1.1.17 **Bid Submittal.** "Bid Submittal" means a document that Bidder is required by the NJPA Bidding Documents to submit with or as part of its Bid.

1.1.18 **Bidder.** "Bidder" means a person or entity submitting a Bid for Award of the NJPA Construction Contract.

1.1.19 **Bidding Documents.** "Bidding Documents" means the following collection of documents prepared and issued by NJPA relating to the NJPA Contract:

- .1 NJPA Invitation for Bid Documents (IFB);
- .2 NJPA Project Information;
- .3 NJPA Instructions to Bidders;
- .4 NJPA Execution Documents;
- .5 NJPA IQCC Standard Terms and Conditions and Contract General Conditions
- .6 Specifications;
- .7 Construction Task Catalogue (General Construction (B) - July 2013)
- .8 Addenda;
- .9 Reference Documents;
- .10 Safety Program; and

.11 those documents, or those portions or provisions of documents, that, although not listed in Subparagraph 1.1.19.2 through Subparagraph 1.1.19.9, above, are expressly cross-referenced therein or attached thereto, including, without limitation, all documents submitted by Contractor as part of its NJPA Bid, Post-Award Submittals, or subsequently awarded NJPA IQC Construction Contracts between the County and the Contractor.

1.1.20 **Board of Supervisors.** "Board of Supervisors" means the Board of Supervisors for the County of Riverside.

1.1.21 **Change.** "Change" means a modification, change, addition, substitution or deletion in the Work or in Contractor's means, methods, manner, time or sequence of performing the Work arising from any cause or circumstances, including, without limitation, either directly at the request of County or constructively by reason of other circumstances. Use of the term "Change," in any context, in the Contract Documents shall not be interpreted as implying that Contractor is entitled to a Contract Adjustment on any basis other than as permitted by the terms of the Contract Documents for Compensable Change, Deleted Work or Compensable Delay. Change Order. "Change Order" means a written instrument, signed in accordance with the requirements of the General Conditions and Supplemental General Conditions of the Standard Form NJPA IQC-Work Order Contract (EZIQC) Between County and Contractor (Supplemental General Conditions), setting forth the agreement of County and Contractor on the terms of a Contract Adjustment.

1.1.22 **Change Order Request.** "Change Order Request" means Contractor's written request for a Contract Adjustment pursuant to Paragraph 7.6.2, below.

1.1.23 **Claim.** "Claim" means a written demand or assertion by Contractor seeking, as a matter of right, an interpretation of contract, payment of money, recovery of damages or other relief. A Claim does not include the following: (1) tort claims for personal injury or death; (2) stop payment notice claims; (3) a determination of the right of County to specific performance or injunctive relief to compel performance; (4) a determination of the right of County to suspend, revoke or limit the Contractor's Prequalification status or rating or to debar Contractor from bidding or contracting with County; or (5) a determination of the right of County under Applicable Laws to terminate the Construction Contract and/or recovery of penalties imposed upon Contractor for violation of statutory obligations under Public Contract Code §4100 *et seq.*

1.1.24 **Close-Out Documents.** "Close-Out Documents" means all Record Documents, warranties, guarantees, technical information, operations manuals, replacement parts, excess and attic stock and other documents (including, without limitation, electronic versions and hard copies) and things required to be submitted by Contractor under the Contract Documents as a condition of Final Completion or Final Payment.

1.1.25 **Compensable Change.** "Compensable Change" means circumstances involving the performance of Extra Work:

.1 that are the result of

(1) Differing Site Conditions,

(2) amendments or additions to Applicable Laws, which amendments or additions are enacted after the Bid Closing Deadline,

(3) a Change requested by County in accordance with the conditions of authorization applicable to Compensable Changes set forth in Article 7, below, or

(4) other circumstances involving a Change in the Work for which Contractor is given under the Contract Documents a specific and express right to a Contract Adjustment to the Contract Price;

.2 that are not caused, in whole or in part, by an act or omission of Contractor or a Subcontractor, of any Tier, constituting negligence, willful misconduct, or violation of an Applicable Law, or by a failure of Contractor or a Subcontractor, of any Tier, to comply with the Contract Documents;

.3 for which a Contract Adjustment is neither prohibited by nor waived under the terms of the Contract Documents; and

.4 that if performed would require Contractor to incur additional and unforeseeable Allowable Costs that would not have been required to be incurred in the absence of such circumstances.

1.1.26 **Compensable Delay.** "Compensable Delay" means a Delay to the critical path of activities affecting Contractor's ability to achieve Substantial Completion of the entirety of the Work within the Contract Time:

.1 that is the result of

(a) a Compensable Change,

(b) the active negligence of County, Architect, a County Consultant or a Separate Contractor,

(c) a breach by County of an obligation under the Contract Documents, or

(d) other circumstances involving Delay for which Contractor is given under the Contract Documents a specific and express right to a Contract Adjustment adjusting the Contract Price;

.2 that is not caused, in whole or in part, by an act or omission of Contractor or a Subcontractor, of any Tier, constituting negligence, willful misconduct, or a violation of an Applicable Law, or a failure by Contractor or any Subcontractor, of any Tier, to comply with the Contract Documents; and

.3 for which a Contract Adjustment to the Contract Time is neither prohibited by nor waived under the terms of the Contract Documents.

**Construction Change Directive.** "Construction Change Directive" means a written instrument signed in accordance with the requirements of Article 7, below, that: (1) directs the performance of a Change that does not involve a Contract Adjustment; (2) establishes a mutually agreed basis for compensation to Contractor for a Compensable Change under circumstances where performance of the Compensable Change needs to proceed in advance of the County performing a full evaluation of the Contractor's rights relative to a Contract Adjustment; or (3) directs performance of Work or a Change with respect to which there exists a dispute or question regarding the terms of a Contract Adjustment.

1.1.27 **Work Order Construction Schedule.** "Construction Schedule" means the detailed, critical path schedule prepared by Contractor in accordance with the requirements of the Contract Documents showing Contractor's plan for performance of the Work within the Contract Time.

1.1.28 **Construction Task Catalog (CTC).** This is a comprehensive listing of specific repair or remodeling tasks together with a specific unit of measurement and a unit price.

1.1.29 **Contract Adjustment.** "Contract Adjustment" means an adjustment, additive or deductive, to the Contract Price or Contract Time, or Work Order that is permitted by the Contract Documents due to circumstances constituting a Compensable Change, Compensable Delay or Deleted Work.

1.1.30 **Contract Documents.** "Contract Documents" means the following collection of documents:

.1 Standard Form of Construction Contract for EZIQC Between County and Contractor (**EZIQC Contract**);

.2 NJPA Addenda;

.3 NJPA Membership Agreement;

- .4 NJPA Indefinite Quantity Construction Agreement;
- .5 NJPA IFB;
- .6 NJPA Book 1 (Project Information, Instructions to Bidders & Execution Documents);
- .7 NJPA Book 2-IQCC Standard Terms and Conditions and General Conditions (**EZIQC General Conditions**);
- .8 EZIQC Work Order & Detailed Scope Documents
- .9 Supplemental General Conditions of the Standard Form EZIQC-Work Order Contract Between County and Contractor (**Supplemental EZIQC General Conditions**)
- 10. Construction Task Catalogue (CTC) (General Construction (B), July 2013
- .11 Change Orders;
- .12 Unilateral Change Orders;
- .13 Construction Change Directives;
- .14 Safety Program;
- .15 other documents that comprise exhibits, attachments or riders to the documents listed in preceding Subparagraph 1.1.35.1 through Subparagraph 1.1.35.11, above;
- .16 executed Declaration of Sufficiency of Funds;
- .17 Modifications;
- .18 Reference Documents; and
- .19 if the NJPA Bidding Documents limit bidding to Prequalified Bidders, those written representations, obligations or responsibilities made, acknowledged or assumed by the Bidder as part of the applicable Prequalification conducted by NJPA, including, without limitation, any continuing obligations assumed by Contractor to disclose false or misleading information, report changes in ownership or management and comply with minimum safety requirements.

1.1.31 **Contract Price.** "Contract Price" means the dollar amount set forth in the EZIQC Contract as the total compensation payable by County to Contractor for complete performance by Contractor in accordance with the Contract Documents of the Work and other obligations assumed by Contractor under the Contract Documents.

1.1.32 **Contract Time.** "Contract Time" means the total number of Days set forth in the EZIQC Contract within which Contractor is obligated to achieve Substantial Completion and/or Final Completion of the Work, as extended or shortened by Contract Adjustments.

Contractor. "Contractor" means the person or entity identified by County as the NJPA Bidder receiving Award of an NJPA Indefinite Quantity Construction Agreement.

Contractor Amount. "Contractor Amount" means the component amount calculated on behalf of Contractor pursuant to Paragraph 15.1.5, below, that is used to determine the total net amount payable to Contractor or County in the event of a partial or full termination or discontinuance of the Work.



1.1.33 **Contractor's Own Expense.** "Contractor's Own Expense" means that Contractor agrees to assume sole responsibility to pay and be responsible for any resulting or associated Loss and Delay, without any Contract Adjustment and without any other form of compensation or reimbursement, of any kind, by County.

1.1.34 **County.** "County" means the County of Riverside, a political subdivision of the State of California.

1.1.35 **County Amount.** "County Amount" means the component amount calculated on behalf of County pursuant to Paragraph 15.1.5, below, that is used to determine the total net amount payable to Contractor or County in the event of a partial or full termination or discontinuance of the Work.

1.1.36 **County Consultant.** "County Consultant" means a consultant, other than Architect, engaged by County (or engaged as a subconsultant to the Architect or a County Consultant) to provide professional advice to County with respect to the design, construction or management of the Project.

1.1.37 **County Review Date.** "County Review Date" means an end date set forth in the Construction Schedule or Submittal Schedule within which County, Architect or a County Consultant is to provide information, review documents or render decisions, approvals or disapprovals.

1.1.38 **County Review Period.** "County Review Period" means a period of time set forth in the Construction Schedule or Submittal Schedule within which County, Architect or a County Consultant is to provide information, review documents or render decisions, approvals or disapprovals.

1.1.39 **County Risk Manager.** "County Risk Manager" means the individual employee of the County acting as its risk manager.

1.1.40 **County Website.** "County Website" means the website maintained by County at <http://www.rivcoeda.org>.

1.1.41 **Date of Commencement.** "Date of Commencement" means the starting date used for calculation of the Contract Time, and is the date, no earlier than the first working day following issuance of the first Work Order Notice to Proceed, issued by the County.

1.1.42 **Day.** "Day", whether capitalized or not, and unless otherwise specifically provided, means calendar day, including weekends and Holidays.

1.1.43 **Declaration of Sufficiency of Funds.** "Declaration of Sufficiency of Funds" means the declaration, in the form included in the Bidding Documents, required to be submitted by Contractor under circumstances where Contractor has not executed a collective bargaining agreement covering the workers who will be employed to perform the Work.

1.1.44 **Defective Work.** "Defective Work" means materials, equipment, labor, workmanship, construction services or other construction work comprising the Work by Contractor or a Subcontractor that (1) is faulty, omitted, incomplete, or deficient, or (2) does not conform to Applicable Laws, the Contract Documents, or the requirements of any inspection, reference standard, test, code or approval specified in the Contract Documents.

1.1.45 **Delay.** "Delay" means any circumstances involving delay, disruption, hindrance or interference.

1.1.46 **Deleted Work.** "Deleted Work" means Work that is eliminated or its scope or cost reduced pursuant to a Change Order or Unilateral Change Order.

1.1.47 **Department of Industrial Relations.** "Department of Industrial Relations" means The Department of Industrial Relations of the State of California.

**1.1.48 Design Discrepancy.** "Design Discrepancy" means an error, omission, conflict, ambiguity, lack of coordination or noncompliance with Applicable Laws contained in the Bidding Documents, Contract Documents, Reference Documents or other information made available by County to Contractor prior to or after the Bid Closing Deadline.

**1.1.49 Design Documents.** "Design Documents" means all originals, copies and drafts of plans, drawings, tracings, specifications, programs, reports, calculations, presentation materials, models, building information models and other writings or materials containing designs, specifications or engineering information related to the Work or Project prepared by Architect, County Consultants, Contractor, Separate Contractors or Subcontractors including, without limitation, computer aided design materials, electronic data files and paper copies. The term "Design Documents" includes both the written documents and all building and other designs depicted therein.

**1.1.50 Design Intent.** "Design Intent" means the general intended design objectives of the Design Documents prepared by Architect and County Consultants, as described in Paragraph 1.2.1, below.

**1.1.51 Designation of Subcontractors.** "Designation of Subcontractors" means the list of proposed Subcontractors prepared by the Bidder pursuant to California Public Contract Code §§4100 et seq.

**1.1.52 Differing Site Condition.** "Differing Site Condition" means an unforeseen condition that constitutes a basis for Contract Adjustment pursuant to Paragraph 4.3.8, below.

**1.1.53 Disability Laws.** "Disability Laws" means applicable federal, state, local or municipal laws, rules, orders, regulations, statutes, ordinances, codes, decrees, or requirements of any Government Authority, which regulate, relate to or impose liability or standards of conduct with respect to, or accessibility for, persons with disabilities, including, without limitation, the Americans with Disabilities Act (42 USCA §§ 12101 et seq.) and the Fair Housing Amendments Act of 1988 (42 USCA §§ 3604 et seq.).

**1.1.54 Discovery Date.** "Discovery Date", generally used in reference to Contractor's obligation to give written notice of certain facts, conditions or circumstances, means the earlier of the dates that Contractor or any Subcontractor either: (1) discovered such facts, conditions or circumstances; or (2) should have discovered such facts, conditions or circumstances in the exercise of the level of care required by the terms of the Standard of Performance.

**1.1.55 Drawings.** "Drawings" means graphic and pictorial documents showing the design, location and dimensions of the Project, and generally includes plans, elevations, subparagraphs, details, schedules and diagrams. The term "Drawings" is used interchangeably with "Plans".

**1.1.56 EDA.** "EDA" means the Economic Development Agency for the County of Riverside.

**1.1.57 Environmental Laws.** "Environmental Laws" means all applicable federal, state, local or municipal laws, rules, orders, regulations, statutes, ordinances, codes, decrees and permits or other requirements of any Governmental Authority, which regulate, relate to, or impose liability or standards of conduct concerning any Hazardous Substance (including, without limitation, the use, handling, transportation, production, disposal, discharge or storage thereof), occupational or environmental conditions on, under, or about the Site or Existing Improvements (including, without limitation, soil, groundwater, and indoor and ambient air conditions), environmental protection (natural or manmade resources), or occupational health or industrial hygiene (but only to the extent related to Hazardous Substances on, under, or about the Site or Existing Improvements), as now or may at any later time be in effect, including without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980 [42 U.S.C.A. §§ 9601 et seq.]; the Resource Conservation and Recovery Act of 1976 [42 U.S.C.A. §§ 6901 et seq.]; the Clean Water Act (also known as the Federal Water Pollution Control Act) [33 U.S.C.A. §§ 1251 et seq.]; the Toxic Substances Control Act [15 U.S.C.A. §§ 2601 et seq.]; the Hazardous Substances Transportation Act [49 U.S.C.A. §§ 1801 et seq.]; the Insecticide, Fungicide, Rodenticide Act [7 U.S.C.A. §§ 136 et seq.]; the Superfund Amendments and Reauthorization Act [42 U.S.C.A. §§ 6901 et seq.]; the Clean Air Act [42 U.S.C.A. §§ 7401 et seq.]; the Safe Drinking Water Act [42 U.S.C.A. §§ 300f et seq.]; the Solid Waste Disposal Act [42 U.S.C.A. §§ 6901 et seq.]; the Surface Mining Control and Reclamation Act [30 U.S.C.A. §§ 1201 et seq.]; the Emergency Planning and Community Right to Know Act [42 U.S.C.A. §§ 11001 et seq.]; the Occupational Safety and Health Act [29 U.S.C.A.

§§ 655 and 657]; the Residential Lead-Based Paint Exposure Act (Title X of the Housing and Community Development Act of 1992) [15 U.S.C.A. §§ 2681 et seq.]; the Lead-Based Paint Poisoning Prevention Act [42 U.S.C.A. §§ 4821 et seq.]; the Federal Endangered Species Act, the California Endangered Species Act, the Migratory Bird Treaty Act, the National Environmental Policy Act, the California Environmental Quality Act, Porter Cologne Water Quality Act (California Water Code §§ 13000 et seq), and all similar federal, state or local laws, rules, orders, regulations, statutes, ordinances, codes, decrees, or requirements.

**1.1.58 Escrow Agent.** "Escrow Agent" means an entity serving as escrow agent pursuant to California Public Contract Code §22300 in connection with the deposit of securities or retention.

**1.1.59 Escrow Bid Documents.** "Escrow Bid Documents" means all written documentation and electronic files reflecting the basis for and calculation of a Bid, including, without limitation, estimates, quantity take-offs, price quotations, product data, pricing data, memoranda, narratives, add/deduct sheets and reports (including, without limitation, reports on conditions at, under, or in the vicinity of the Site). The term "Escrow Bid Documents" does not include copies of Bidding Documents if they are not needed to comply with the requirements of the Bidding Documents applicable to submission of Escrow Bid Documents.

**1.1.60 Event of Contractor Default.** "Event of Contractor Default" means any of the events constituting default by Contractor as set forth in Paragraph 15.1.1, below.

**1.1.61 Evidence of Insurance.** "Evidence of Insurance" means the statement, completed by Bidder in the form included in the Bidding Documents, evidencing the Bidder's compliance with the insurance requirements of the Bidding Documents.

**1.1.62 Excusable Delay.** "Excusable Delay" means a Delay, other than a Compensable Delay, to Contractor's ability to achieve Substantial Completion or Final Completion of the Work within the Contract Time that is: (1) not caused, in whole or in part, by an act or omission of Contractor or a Subcontractor, of any Tier, constituting negligence, willful misconduct, a violation of an Applicable Law or a failure by Contractor or any Subcontractor, of any Tier, to comply with the Contract Documents; (2) unforeseeable, unavoidable and beyond the control of Contractor and the Subcontractors, of every Tier; and (3) the result of a Force Majeure Event. Without limitation to the foregoing, neither the bankruptcy, insolvency nor financial inability of Contractor or a Subcontractor, of any Tier, nor any failure by a Subcontractor, of any Tier, to perform any obligation imposed by contract or Applicable Laws shall constitute a ground for Excusable Delay.

**1.1.63 Existing Improvements.** "Existing Improvements" means all improvements located on the Site as of the acceptance date of the Detailed Scope of Work, whether above or below the surface of the ground, including, but not limited to, existing buildings, utilities, infrastructure improvements and other facilities.

**1.1.64 Extra Work.** "Extra Work" means labor, materials, equipment, services or other work, not reasonably inferable by Contractor or its Subcontractors from the design and other information set forth in the Bidding Documents, the performance of which requires the expenditure by Contractor of additional and unforeseen Allowable Costs. References to Extra Work shall not be interpreted to mean or imply that Contractor is entitled to a Contract Adjustment unless such Extra Work constitutes a Compensable Change.

**1.1.65 Final Completion, Finally Complete.** "Final Completion" and "Finally Complete" mean the point at which the following conditions have occurred with respect to an individual Work Order:

- .1** the Work is fully completed, including all minor corrective, or "punch list," items;
- .2** all permits, approvals and certificates by Governmental Authorities, such as, but not necessarily limited to, a permanent or temporary certificate of occupancy required to occupy and use the Work have been issued free of any conditions that are the result of an act or omission of Contractor or a Subcontractor, of any Tier, constituting negligence, willful misconduct, a violation of an Applicable Law or a failure by Contractor or any Subcontractor, of any Tier, to comply with the Contract Documents;
- .3** the Work and the related portions of the Site have been thoroughly cleared of all construction debris and cleaned in accordance with the requirements of the Contract Documents, including, but not necessarily

limited to where applicable, the following: removal of temporary protections; removal of marks, stains, fingerprints and other soil and dirt from painted, decorated and natural-finished woodwork and other Work; removal of spots, plaster, soil and paint from ceramic tile, marble and other finished materials; all surfaces, fixtures, cabinet work and equipment are wiped and washed clean and in an undamaged, new condition; all aluminum and other metal surfaces are cleaned in accordance with recommendations of the manufacturer; and all stone, tile and resilient floors are cleaned thoroughly in accordance with the manufacturer's recommendations and buff dried by machine to bring the surfaces to sheen;

.4 all conditions set forth in the Contract Documents for Substantial Completion of the Work have been, and continue to be, fully satisfied;

.5 all conditions pertaining to the Work and required for the release of County's obligations (including, but not limited to, release of County's bond obligations) to Governmental Authorities (including, but not limited to, matters involving grading, flood control, public works, transportation and traffic) have been satisfied; and

.6 Contractor has delivered to County all Close-Out Documents.

1.1.66 **Final Completion Punch List.** "Final Completion Punch List" means the list of minor items of Work to be completed or corrected by Contractor for Final Completion.

1.1.67 **Final Payment.** "Final Payment" means payment by County to Contractor of the entire unpaid balance of the Work Order Price due to Contractor following Final Completion, less the amount retained per the contract.

1.1.68 **Force Majeure Event.** "Force Majeure Event" means, and is restricted to, any the following: (1) Acts of God occurring at the Site; (2) terrorism or other acts of a public enemy; (3) orders of Governmental Authorities (including, without limitation, unreasonable and unforeseeable Delay in the issuance of permits or approvals by Governmental Authorities that are required for the Work); (4) epidemics or quarantine restrictions; (5) strikes and other organized labor action occurring at the Site and the effects thereof on the Work to the extent such strikes and other organized labor action are beyond the control of Contractor and its Subcontractors, of every Tier, and to the extent the effects thereof cannot be avoided by use of replacement workers or implementation of a dual gate system of entry to the Site; or (6) unusual shortages in materials that are supported by documented proof that (a) Contractor made every effort to obtain such materials from all available sources, (b) such shortage is due to the fact that such materials are not physically available from single or multiple sources or could have been obtained only at exorbitant prices entirely inconsistent with current rates taking into account the quantities involved and the usual industry practices in obtaining such quantities, and (c) such shortages and the difficulties in obtaining alternate sources of materials could not have been known or anticipated as of the Bid Closing Deadline.

1.1.69 **Fragnet.** "Fragnet" means a contemporaneous, fragmentary scheduling network, which graphically identifies the sequencing of all critical and non-critical new activities and/or activity revisions affected by a Compensable Delay or Excusable Delay with logic ties to all affected existing activities noted on the Construction Schedule, that isolates and quantifies a time impact of a specific issue, determines and demonstrates any such specific Delay in relation to past and/or other current Delays and provides a method for incorporating all Contract Adjustments to the Contract Time into an update of the approved Construction Schedule.

1.1.70 **General Conditions.** "General Conditions" means the herein set forth general terms and conditions governing performance of the Work.

1.1.71 **General Requirements.** "General Requirements" means the portion of the Specifications so titled setting forth additional requirements for administration of the Work.

1.1.72 **Good Faith Determination.** "Good Faith Determination" means a determination made by the Assistant CEO/EDA or other authorized representative of County, which he/she believes in good faith to be a proper exercise of County's rights and to have a reasonable basis in fact, whether or not such determination is in fact proper, reasonable or correct or adjudged to be so.

**1.1.73 Governmental Authority.** "Governmental Authority" means the United States, the State of California, the County of Riverside (acting in its regulatory, rather than proprietary, capacity), the City in which the Project is located, any other local, regional, state or federal political subdivision, authority, agency, department, commission, board, bureau, court, judicial or quasi-judicial body, and any legislative or quasi-legislative body, or instrumentality of any of them, which exercises jurisdiction over the Project, Work, Site, Contractor or County, including, without limitation, any Governmental Authority having jurisdiction to review and approve or reject the Contract Documents or the Work based on compliance or non-compliance with Applicable Laws.

**1.1.74 Governmental Authority Review Period.** "Governmental Authority Review Period" means a period of time set forth in the Construction Schedule or Submittal Schedule for Governmental Authority review, and/or approval, of the Work.

**1.1.75 Guarantee To Repair Period.** "Guarantee To Repair Period" means the period of time set forth in Section 13.3, below, for repair or replacement of Defective Work.

**1.1.76 Hazardous Substance.** "Hazardous Substance" means either of the following: (1) any chemical, material or other substance defined as or included within the definition of "hazardous substances," "hazardous wastes," "extremely hazardous substances," "toxic substances," "toxic material," "restricted hazardous waste," "special waste," "contamination" or words of similar import under any Environmental Law, including, without limitation, the following: petroleum (including crude oil or any fraction thereof), asbestos, asbestos-containing materials, polychlorinated biphenyls ("PCBs") and PCB-containing materials, whether or not occurring naturally; or (2) any substance that because of its quantity, concentration or physical or chemical characteristics poses a significant present or potential hazard to human health and safety or to the environment, and which has been determined by any Governmental Authority to be a hazardous waste or hazardous substance.

**1.1.77 Holiday.** "Holiday" means a Day recognized by County as being a legal holiday for its staff and employees.

**1.1.78 Indemnitees.** "Indemnitees" means those persons or entities listed in Paragraph 3.18.1, below, as the "Indemnitees".

**1.1.79 Inspector of Record.** "Inspector of Record" means a person designated by the County to perform inspections on behalf of the County, who may be an employee or an independent consultant to County.

**1.1.80 Installation Subcontractor.** "Installation Subcontractor" means a Subcontractor who performs a portion of the Work that includes providing substantial, rather than minor and incidental, services for the installation of temporary or permanent materials, equipment or facilities at the Site.

**1.1.81 Instructions to Bidders.** "Instructions to Bidders" means the portion of the Bidding Documents setting forth the requirements to be followed by Bidders in preparing and submitting Bids.

**1.1.82 Intellectual Property Rights.** "Intellectual Property Rights" means all intellectual property rights, including, without limitation, patent, trademark, trade dress, copyright, industrial design rights, priority rights and trade secrets.

**1.1.83 Work Order.** Means a firm, fixed priced, lump sum order issued by the County under the EZIQC Contract to a Contractor with an approved NJPA Indefinite Quantity Construction Agreement. The Work Order will set forth a definite project scope of work as compiled from the Construction Task Catalog to be performed pursuant to the EZIQC Contract. A Work Order, minimally, consists of plans, shop drawings, permits, specifications and the Scope of Work required to complete the Work. The County, in cooperation with the Gordian Group, will be responsible for the development of the Work Order as well as the observation and acceptance of the Work contained within the Work Order. The County will review the Contractor's Proposal and if acceptable, shall sign the Work Order, submit the EZIQC Contract to the Board of Supervisors for approval and issue a Notice to Proceed for the work described therein. Each Work Order will include a detailed Scope of Work, a firm fixed price proposal from the Contractor, a time duration for the completion of the Work and any special conditions that might apply to that specific Work Order. There is no minimum value associated with an individual Work Order and the maximum value shall be in accordance with the NJPA Indefinite Quantity Construction Agreement.

**1.1.84 Work Order Amount.** The dollar amount stated in the Work Order payable by County to Contractor. The Work Order Amount is a firm-fixed price and may not be increased or decreased. Work may be added to or deleted from a project utilizing an additive or deductive Supplemental Work Order as back up to an authorized County Change Order.

**1.1.85 NJPA Indefinite Quantity Construction Agreement().** A competitively bid, fixed period, fixed unit price and indefinite quantity contract between the NJPA and the Contractor that provides for the use of Work Orders for public works or maintenance projects. Work is accomplished under the individually awarded EZIQC Contracts approved by the Board of Supervisors until the fixed period or the Maximum Contract Amount of the NJPA Indefinite Quantity Construction Agreement is reached, whichever comes first. See also the definitions for "Contract" and "Contract Documents" set forth respectively in this Section.

**1.1.86 Work Order Proposal.** Also sometimes referred to in the Contract Documents as a "Proposal", is the Contractor's irrevocable offer to perform all Work associated with a Work Order. It refers to the Contractor prepared document quoting a firm fixed-price and schedule for the completion of a specific Scope of Work. The Contractor's Proposal must be on forms provided by the County and in an electronic version compatible with the County's systems, including but not limited to, e-Gordian. The Proposal may also contain approved drawings, work schedule, permits, or other such documentation as the County might require for a specific Work Order.

**1.1.87 Work Order Time.** The duration of time, stated in number of days, as set forth in an individual Work Order. Work Order Time is the stated number of days the Contractor has to perform the tasks set forth in the Work Order. Work Order Time can also mean more or less days than the original number of days stated in the Work Order if the Work Order is modified by a Change Order with a Supplemental Work Order as part of the backup documentation.

**1.1.88 Key Personnel, Key Persons.** "Key Personnel" and "Key Persons" mean those individuals employed by Contractor as described in Paragraph 3.8.1, below, and any replacements thereto approved by County, whose personal performance is deemed of the essence to the Construction Contract.

**1.1.89 Loss, Losses.** "Loss" and "Losses" mean any and all economic and non-economic losses, costs, liabilities, claims, damages, cost escalations, actions, judgments, settlements, expenses, fines, penalties and punitive damages including, without limitation, full and actual attorney's fees (including, without limitation, attorney's fees for trial and on appeal), expert and non-expert witness fees, arbitrator and arbitration fees, court costs (statutory and non-statutory), and mediation and mediator fees.

**1.1.90 Maximum Contract Amount.** The maximum potential dollar value of the NJPA Indefinite Quantity Construction Agreement is Two Million Dollars (\$2,000,000) per year. Each NJPA Indefinite Quantity Construction Agreement has an initial term of one (1) year and bilateral option provisions for three (3) additional terms. The total term cannot exceed four (4) years. EZIQC. The aggregate dollar value of the Work Order(s) issued under each NJPA Indefinite Quantity Contract cannot exceed the Maximum Contract Amount unless adjusted in accordance with the EZIQC General Conditions.

**1.1.91 Minimum Contract Amount.** The Contractor is not guaranteed to receive any Work Orders under the NJPA Indefinite Quantity Construction Agreement.

**1.1.92 Modification.** "Modification" means a document, other than a Change Order or Construction Change Directive, approved and signed by County and Contractor after execution of the Construction Contract, agreeing to alter, amend or modify the Contract Documents.

**1.1.93 Mold.** "Mold" means mold, mildew, spores or other microorganisms of any type, nature or description, or any by-product thereof, the presence of which poses an actual or potential threat to human health, including, without limitation, any species of organisms of the kingdoms of fungi or mycota, including yeasts, smuts, ruts, mildews, mold and mushrooms, or any microbial contamination, either airborne or surface, which arises out of or is related to the presence of fungi or spores (including, without limitation, aspergillus, cladosporium, penicillium and stachybotrys chartarum).

Non-Collusion Declaration. "Non-Collusion Declaration" means the form, so titled, required by California Public Contract Code §7106 and the Bidding Documents to be submitted by Bidder with its Bid.

1.1.94 **Non-prepriced tasks.** As used herein, means those units of work that are not included in the CTC but within the general scope and intent of this Contract and may be negotiated into this Contract as needs arise. Such work requirements shall be incorporated into and made a part of this Contract for the Work Order to which they pertain, and may be incorporated into the CTC, if determined appropriate by the County and NJPA, at the base price determined in this Work Order. Non-prepriced work requirements shall be separately identified and submitted in the Work Order Proposal.

1.1.95 **Notice Inviting Bids.** "Notice Inviting Bids" (also called Invitation for bids [IFB] in the NJPA documents) means the notice issued by or on behalf of County inviting submission of Bids for the Project.

1.1.96 **Notice of Change.** "Notice of Change" means a formal written notice required to be submitted by Contractor pursuant to Paragraph 7.6.1, below, notifying County of circumstances that Contractor believes may give rise to a Contract Adjustment.

1.1.97 **Notice of Completion.** "Notice of Completion" means a "notice of completion" as defined in California Civil Code §9204.

1.1.98 **Notice of Completion of a Work Order.** The Notice of Completion ("NOC") shall be issued by the Economic Development Agency at that point in the Work Order when the Contractor has completed all Work required in the Work Order. The time for issuance shall be determined by the County through a final inspection and acceptance of the work described in the Work Order. The NOC shall be signed by the Board of Supervisors for Work Orders exceeding \$125,000, and by either the Assistant County Executive Officer/EDA, Managing Director of EDA, or Assistant Director of Economic Development Agency/Project Management Office for Work Orders \$124,999 or less.

1.1.99 **Notice of Delay.** "Notice of Delay" means a formal written notice prepared and submitted by Contractor pursuant to Paragraph 8.2.2, below, notifying County of circumstances that Contractor believes may give rise to a Contract Adjustment to the Contract Time for Excusable Delay or Compensable Delay or a Contract Adjustment to the Contract Price for Compensable Delay.

1.1.100 **Notice of Final Completion.** "Notice of Final Completion" means the written notice by County confirming the date of actual Final Completion.

1.1.101 **Notice of Intent to Award.** "Notice of Intent to Award" means the written notice by or on behalf of County stating County's intent to Award the Construction Contract.

1.1.102 **Notice of Substantial Completion.** "Notice of Substantial Completion" means the written notice by County confirming the date of actual Substantial Completion.

1.1.103 **Payment Bond, Performance Bond.** "Payment Bond" and "Performance Bond" mean the surety bonds required to be provided by Contractor pursuant to Article 12, below.

1.1.104 **Plans.** "Plans" means the graphic and pictorial portions of the Contract Documents prepared by Architect or its Subconsultants showing the design, location and dimensions of the Work, including, without limitation, plans, elevations, details, schedules and diagrams. The term "Plans" is used interchangeably with "Drawings".

1.1.105 **Post-Award Submittals.** "Post-Award Submittals" means the documents described in the Contract Documents that the Contractor is required to submit after Contract is awarded.

1.1.106 **Pre-Bid Conference.** "Pre-Bid Conference" means the conference, specified in the Notice Inviting Bids as either mandatory or optional, held prior to the Bid Closing Deadline for the purpose of, without limitation, introducing the Bidders to the NJPA EZIQC Program, and review of associated documents and processes.

**1.1.107 Product Data.** "Product Data" means illustrations, standard schedules, charts, instructional brochures, diagrams and other information furnished by Contractor to illustrate a material, product or system for the Work.

**1.1.108 Progress Payment.** "Progress Payment" means a monthly payment of a portion of the Contract Price prior to Final Completion based on Contractor's progressed performance of the Work.

**1.1.109 Project.** "Project" means the improvements comprising, or necessary or appurtenant to the use of, the work of improvements described generally in the Work Order documents issued for each Work Order under the Contract, including but not limited to, the Detailed Scope of Work and the Notice to Proceed; and of which the Work may be the entirety of such improvements or only a part. Project Documents.

**1.1.113 Project Documents.** "Project Documents" means all writings (hard copy and electronic) in the possession of Contractor at the Site or elsewhere that relate in any way to the Project or Work.

**1.1.111 Project Team.** "Project Team" means County, Architect, County Consultants, Contractor, the Subcontractors, the Separate Contractors, Inspectors of Record and other firms or individuals retained by County, or retained by others with County's approval, participating in the planning, programming, design, construction or inspection of the Work.

**1.1.112 Reasonable Order of Magnitude Estimate.** "Reasonable Order of Magnitude Estimate" means a general estimate prepared by Contractor, or jointly by Contractor and County, without the benefit of complete or definitive pricing by Subcontractors, of the projected additional cost and time associated with Contractor's performance of a particular item or items of Extra Work or Deleted Work described in a Construction Change Directive. Unless otherwise agreed to in writing between County and Contractor, a Reasonable Order of Magnitude Estimate does not constitute either an authorization or agreement by County to any Contract Adjustment or a guarantee or promise by Contractor with respect to the amount of any Contract Adjustment that may be associated with a Compensable Change or Deleted Work.

**1.1.113 Record Documents.** "Record Documents" means the collection of documents assembled and prepared by Contractor (including, without limitation, the Record Drawings and Specifications) showing the condition of the Work as actually built.

**1.1.114 Record Drawings, Record Specifications.** "Record Drawings" and "Record Specifications" mean the Drawings and Specifications marked by Contractor to show the condition, location and placement of the Work as actually built, including, without limitation, the locations of mechanical, electrical, plumbing or similar portions of the Work that are depicted diagrammatically in the Drawings.

**1.1.115 Reference Documents.** "Reference Documents" means reports, studies, surveys and other information provided by County for Contractor's review and consideration in preparing its Bid, including, without limitation, information describing the Site (including surface or subsurface conditions), Existing Improvements or Hazardous Substances at the Site.

**1.1.116 Request for Extension.** "Request for Extension" means a formal written request submitted by Contractor pursuant to Paragraph 8.2.3, below, setting forth the justification and support for Contractor's request for a Contract Adjustment to the Contract Time.

**1.1.117 Request for Information.** "Request for Information" means a written request by Contractor for clarification of what it perceives to be a discrepancy in the Contract Documents (including, without limitation, information in the Contract Documents constituting a Design Discrepancy or a variance between the information in the Bidding Documents or Contract Documents and conditions at the Site or in Existing Improvements).

**1.1.118 Safety Program.** "Safety Program" means the formal, written program prepared by Contractor setting forth detailed procedures and precautionary measures for protecting persons and property from injury or damage.



**1.1.119 Samples.** "Samples" means physical examples that, when approved by County and Architect, illustrate materials, equipment or workmanship by which the Work is to be evaluated and judged as part of the Submittal process.

**1.1.120 Schedule of Values.** "Schedule of Values" means a detailed, itemized breakdown of the Contract Price, which provides for an allocation of the dollar values to each of the various parts of the Work.

**Self-Performed Work.** "Self-Performed Work" means Work related to a Compensable Change or Deleted Work that is performed or to be performed by Contractor's own laborers who are employed by Contractor, rather than by the employees of a Subcontractor, using materials and equipment purchased by Contractor directly from a supplier or manufacturer.

**1.1.121 Separate Contractor.** "Separate Contractor" means a contractor, subcontractor, supplier or vendor under contract directly to County to provide services, materials, labor, equipment or other work to the Project.

**1.1.122 Shop Drawing.** "Shop Drawing" means a drawing, diagram, schedule and other data specially prepared for the Work by Contractor or a Subcontractor to illustrate some portion of the Work.

**1.1.123 Site.** "Site" means: (1) the parcel of land owned by County on which the Project is to be constructed and such additional parcels as may be purchased by County for such construction; (2) all areas adjacent to such parcels that may be used by Contractor or the Subcontractors for staging, storage, parking or temporary offices; and (3) all land areas, both private and public, adjacent to such parcels on which Work is required to be performed under the Contract Documents, Applicable Laws or permits relating to the Project.

**1.1.124 Specifications.** "Specifications" means the portion of the Contract Documents consisting of the written requirements for materials, equipment, standards and workmanship for the Work and performance of related services.

**1.1.125 Standard of Performance.** "Standard of Performance" means the general standard governing Contractor's performance of its obligations under the Construction Contract, EZIQC General Conditions and EZIQC Supplemental General Conditions as set forth in Section 2.2 of the EZIQC Construction Contract.

**1.1.126 State Water Resources Control Board.** "State Water Resources Control Board" means the State Water Resources Control Board of the State of California.

**1.1.127 Storm Water Permit.** "Storm Water Permit" means any applicable storm water, urban runoff or statewide general NPDES permit issued by the State of California or the United States pursuant to the provisions of the Clean Water Act (Title 33 U.S.C. §§1251 et seq.) and/or Porter Cologne Water Quality Control Act (California Water Code §§13000 et seq.) and including any related regulations issued by the State of California or the United States.

**1.1.128 Sub-Bidder.** "Sub-Bidder" means a person or entity that submits a bid to an EZIQC Contractor for some portion of the Work that is to be performed by that person or entity acting as a first-Tier Subcontractor.

**1.1.129 Subcontractor.** "Subcontractor" means a person or entity that has a contract to perform a portion of the Work, including without limitation, subcontractors, sub-subcontractors, suppliers, equipment operators, manufacturers and vendors, of any and every Tier.

**1.1.130 Submittal.** "Submittal" means a Shop Drawing, Product Data, Sample, detailed design, exemplar, fabrication and installation drawing, list, graph, operating instruction or other document required to be submitted by Contractor under the Contract Documents.

**1.1.131 Submittal Schedule.** "Submittal Schedule" means the schedule prepared by Contractor showing the timing for submission and review of Submittals during construction.

**1.1.132 Substantial Completion, Substantially Complete.** "Substantial Completion" and "Substantially Complete" mean the point at which the following conditions have occurred with respect to the entire Work or a portion of the Work designated by County in writing to be Substantially Completed prior to Substantial Completion of the entire Work:

.1 such Work is sufficiently and entirely complete in accordance with Contract Documents so that such Work can be fully enjoyed and beneficially occupied and utilized by County for its intended purpose (except for minor items which do not impair County's ability to so occupy and use such Work);

.2 all permits, approvals and certificates by Governmental Authorities, such as, but not necessarily limited to, a permanent or temporary certificate of occupancy required to occupy and use such Work have been issued free of any conditions that are the result of an act or omission of Contractor or a Subcontractor, of any Tier, constituting negligence, willful misconduct, a violation of an Applicable Law or a failure by Contractor or any Subcontractor, of any Tier, to comply with the Contract Documents; and

.3 all building systems included in such Work are operational as specified, all designated or required inspections and certifications by Governmental Authorities have been made and posted and instruction of County's personnel in the operation of the systems has been completed.

**1.1.133 Substantial Completion Punch List.** "Substantial Completion Punch List" means the list of items of Work to be completed or corrected by Contractor for Substantial Completion.

**1.1.134 Substitution.** "Substitution" means a material, product or item of material or equipment proposed by the Bidder or Contractor in place of that specified in the Bidding Documents or Contract Documents.

**1.1.135 Substitution Request Form.** "Substitution Request Form" means the form, so titled, that is included in the Bidding Documents for use by the Bidders when requesting a Substitution.

**1.1.136 Supplementary Conditions.** "Supplementary Conditions" means those portions of the Specifications that supplement, by addition, modification or deletion, a specific portion of the General Conditions.

**Supplemental General Conditions.** "Supplemental General Conditions" means the herein set forth supplemental general terms and conditions governing performance of the Work and titled, Supplemental General Conditions of the Standard Form EZIQC-Work Order Contract Between County and Contractor.

**1.1.137 Supplemental Work Order.** A stand-alone Work Order issued in the same manner and including all the characteristics described in item 1.1.89.1, Work Order, above. The purpose and use of a Supplemental Work Order shall be to provide primary back up for any change to the project by adding or deleting work or time to or from the project for which a Work Order has been issued. Such supplemental work shall be reviewed by the County in advance and shall be approved as compensable under the requirements of the EZIQC Contract and a county change order shall be issued as the primary change order mechanism. Completion and acceptance of Work under a Supplemental Work Order shall follow the same requirements as all Work Orders and all the requirements of the EZIQC Contract.

**1.1.138 Surety.** "Surety" means Contractor's surety(ties) issuing the Bid Bond, Performance Bond or Payment Bond.

**1.1.139 Technical Specifications.** The term "Technical Specifications" means that portion of the Contract Documents consisting of the written requirements for materials, equipment, construction systems, standards and workmanship for the Work.

**1.1.140 Tier.** "Tier" means the contractual level of a Subcontractor with respect to Contractor. For example, a "first-tier" Subcontractor is under contract with Contractor. A sub-subcontractor under contract with a first-tier Subcontractor is in the "second tier," and so on. Use of the phrase "of every Tier", or similar phraseology, in the Contract Documents shall not be interpreted as implying that other provisions of the Contract Documents, where such phrase is not used, are intended to be limited in application to only the first Tier or to only certain other Tiers of Subcontractors.

**1.1.141 Time Impact Analysis.** "Time Impact Analysis" means a written report evaluating the impact of an Excusable or Compensable Delay, which shall include, at a minimum, the following: (1) a narrative description of the Delay and its impact on the critical path to achievement of a Substantial Completion or Final Completion of the Work or a portion of the Work designated by County within the Contract Time; (2) a Fragnet; (3) the number of Days of extension sought by Contractor as a Contract Adjustment to the Contract Time; (4) a computation of the Days of Compensable Delay multiplied times the liquidated damages payable to Contractor pursuant to Section 3.3 of the Construction Contract, if any, sought by Contractor; (5) a statement that Contractor has complied with the requirements of the General Conditions for written notice of Delays, along with the dates and copies of such notices; (6) the measures taken by Contractor and Subcontractors to prevent or minimize the Delay; and (7) Contractor's recommendations for reordering or re-sequencing the Work to avoid or minimize further Delay.

**1.1.142 Unexcused Delay.** "Unexcused Delay" means any Delay that is not a Compensable Delay or Excusable Delay or that constitutes a Compensable Delay or Excusable Delay for which Contractor is not entitled to a Contract Adjustment to the Contract Time, including, without limitation, the following: (1) Delay caused by an act or omission of Contractor or a Subcontractor, of any Tier, constituting negligence, willful misconduct, a violation of an Applicable Law or a failure by Contractor or any Subcontractor, of any Tier, to comply with the Contract Documents; (2) Delay for which Contractor has failed to provide a timely and complete Notice of Delay or Request for Extension; or (3) Delay associated with any circumstances where the costs or risk associated with such circumstances are designated in the Contract Documents as being at Contractor's risk or Contractor's Own Expense.

**1.1.143 Unilateral Change Order.** "Unilateral Change Order" means a writing signed by County in accordance with Article 7, below, in which County unilaterally sets forth its Good Faith Determination of the undisputed portion of an otherwise disputed Contract Adjustment.

**1.1.144 Unilateral Work Order.** The purpose of the Unilateral Work Order is to provide the County with a flexible procedure by which it may respond expeditiously to its needs to change project scope of time. By virtue of this clause, the County is entitled to order work and to bind the contractor to performance of the work as needed for the term of their contract. The County will issue a unilateral Change Order, to which the subject Unilateral Work Order will serve as primary back-up, as the mechanism by which the EZIQC Contract will be changed.

**1.1.145 Unit Price.** As used herein refers to the price published in the Construction Task Catalog (CTC) for a specific repair or remodeling task. The unit prices are fixed for the duration of the EZIQC. Each unit price is comprised of the Labor, Equipment and Materials costs to accomplish that specific task.

**1.1.146 Work.** "Work" means all labor, materials, equipment, services, permits, licenses, taxes and other things necessary for Contractor to perform its obligations under the Contract Documents, including, without limitation, any Changes requested by County, in accordance with the Contract Documents and all Applicable Laws. The Work may constitute the whole or a part of the Project. The Scope of Work for this EZIQC is determined by individual Work Orders issued under the Contract. The Scope of Work is the complete description of services to be provided by the Contractor under each individual Work Order. The Scope of Work will include documentation for a given Project. Documentation includes, but is not limited to, a narrative description of the work.

**1.1.147 Work Hours.** Normal Work Hours – Any eight hour shift between the hours of 7am to 5pm weekdays; Other Than Normal Work Hours – 5pm to 7 am weekdays, weekends and holidays.

**1.1.148 Worker's Compensation Certificate.** "Worker's Compensation Certificate" means the statement, completed by Bidder in the form included in the Instruction to Bidders, evidencing the Bidder's compliance with the worker's compensation insurance requirements of the Bidding Documents and Applicable Laws.

## **1.2 CORRELATION, INTERPRETATION AND INTENT OF CONTRACT DOCUMENTS**

**1.2.1 Design Intent.** The intent of the Contract Documents is for Contractor to provide all items necessary to produce a work of improvement that is complete as a whole and that is, in all of its parts, suitable for use and occupancy for its intended purpose, including, without limitation, all equipment, casework, mechanical, electrical and similar devices of whatever nature, completely installed, hooked-up and made fully operational and functional.

**1.2.2 Complementary.** Contract Documents are complementary, and what is called for by one shall be as binding as if called for by all. Any Work called for on the Drawings and not mentioned in the Specifications, or vice versa, shall be performed as though fully set forth in both.

**1.2.3 Technical Words.** Unless otherwise stated in the Contract Documents, technical words and abbreviations contained in the Contract Documents are used in accordance with commonly understood construction industry meanings and non-technical words and abbreviations are used in accordance with their commonly understood meanings.

**1.2.4 Trade Names.** It is not the intention of the Contract Documents to go into detailed descriptions of any materials or methods commonly known to the trade under a "trade name" or "trade term." The mere mention or notation of such "trade name" or "trade term" shall be considered a sufficient notice to the Contractor that it will be required to complete the Work so named with all its appurtenances according to first-class practices of the trade.

**1.2.5 Incidental Items.** The naming of any material or equipment shall mean furnishing and installing of same, including all incidental and accessory items thereto and labor therefor, in accordance with first-class practices of the trade involved, unless specifically noted otherwise.

**1.2.6 Drawing Dimensions.** Figured, derived or numerical dimensions on scale Drawings shall govern over Drawings without figured dimensions. The Drawings shall not be scaled to determine dimensions, and (except in the case of diagrammatic Drawings) dimensions shall be calculated from figures shown on the Drawings. Obvious discrepancies between scale and figured dimensions, not marked "not to scale," must be brought to the Architect's attention before proceeding with the Work affected by the discrepancy. Contractor shall carefully check and compare all portions of the Drawings and Specifications so as to correctly interpolate the intended dimensions for any portion of the Work that is not explicitly dimensioned in the Contract Documents.

**1.2.7 Drawings, Specifications.** In general, the Drawings will show dimensions, positions, and kind of construction and the Specifications will define materials, quality and standards. Work not particularly shown, detailed, marked or specified shall be the same as similar parts that are shown, detailed, marked or specified.

**1.2.8 Typical Work.** Work not particularly shown, detailed, marked or specified shall be the same as similar parts that are shown, detailed, marked or specified.

**1.2.9 Divisions of the Work.** All the Work mentioned or indicated in the Contract Documents shall be performed by Contractor as part of the Work unless specifically indicated in the Contract Documents to be done by others. The organization of the Specifications into divisions, sections and articles and the arrangement of the Drawings shall not control Contractor in dividing the Work among the Subcontractors or in establishing the extent of the Work to be performed by the Subcontractors.

**1.2.10 Applicable Laws.** Compliance with Applicable Laws shall be considered as a part of the Work.

**1.2.11 Interpretations of Laws.** In the event of a conflict between or among Applicable Laws governing performance of the Work, the more stringent shall govern. Contractor assumes, at Contractor's Own Expense, sole responsibility for, and the risk associated with, interpretations of Applicable Laws made by Contractor not predicated on written orders issued by Governmental Authorities that by their terms are applicable to the Project, including, without limitation, interpretations or assumptions made by Contractor based on decisions, orders or approvals (written or unwritten) issued by or on behalf of Governmental Authorities in connection with work on other projects or properties near or in the general vicinity of the Site.

**1.2.12 Modifiers.** The Contract Documents may omit modifying words such as "all" and "any," and articles such as "the" and "an." If a modifier or an article is not included in one statement and appears in another, it is not intended to affect the interpretation of either statement. The use of the word "including," when following any general statement, shall not be construed to limit such statement to specific items or matters set forth immediately following such word or to similar items or matters whether or not non-limiting language (such as "without limitation,"

"but not limited to," or words of similar import) is used with reference thereto, but rather shall be deemed to refer to all other items or matters that could reasonably fall within the broadest possible scope of such general statement.

**1.2.13 Singular, Gender, Captions.** When appropriate to the context, the use of the singular number shall be deemed to include the plural and vice versa. Each gender shall be deemed to include any other gender, and each shall include corporation, partnership, trust or other legal entity whenever the context so requires. The captions and headings of the various subdivisions of the Contract Documents are intended only as a matter of reference and convenience and in no way define, limit, or prescribe the scope or intent of the Contract Documents or any subdivision thereof.

**1.2.14 Cross-References.** Any cross-references indicated between various paragraphs or other portions of the Specifications, Drawings or other Contract Documents are provided for the convenience of Contractor and shall not be deemed to be all-inclusive.

**1.2.15 Diagrammatic Design.** Drawings and diagrams for mechanical, plumbing, electrical, fire sprinkler, fire alarm and low voltage Work shall be considered as diagrammatic only and shall not be used for any structural guidance or physical layout. Because such Drawings are diagrammatic, Contractor shall be responsible to provide any and all numbers and lengths of fittings, wire, conduit, connections, attachments or similar materials or devices needed to complete the Work, without Contract Adjustment, whether or not they exceed the numbers of pieces or the lengths indicated by such Drawings. Contractor is solely responsible to carefully plan and coordinate in advance, by means of coordination drawings prepared by Contractor or a Subcontractor, the installation of any Work shown diagrammatically and shall do so in such a manner as to make maximum use of the space available and anticipate and avoid wherever possible conflict and interferences among such portions of the Work and with other portions of the Work, including structural members.

**1.2.16 Demolition.** Existing Improvements at the Site of which no specific description is made in the Contract Documents, but which could be reasonably assumed to interfere with the satisfactory completion of the Work, shall be removed and disposed of by Contractor without Contract Adjustment. If Contractor is unsure whether a specific Existing Improvement at the Site which is not specifically described in the Contract Documents should be removed and disposed of, Contractor shall promptly ask the County whether such Existing Improvement is to be removed or remain in place, and shall comply with any directive given in response.

**1.2.17 Omissions.** Items missing from the Contract Documents shall nevertheless be provided by the Contractor, without Contract Adjustment, to the extent reasonably inferable from the Contract Documents as being necessary to satisfy the Design Intent.

**1.2.18 Conflicts.** Notwithstanding the provisions of Paragraph 1.2.19, below, in the event of conflict between any of the Contract Documents, the provision placing a more stringent requirement or greater burden on the Contractor or requiring the greater quantity or higher quality material or workmanship shall prevail, unless otherwise directed by the County in writing.

**1.2.19 Order of Precedence.** Conflicts that cannot be resolved in accordance with the rules of interpretation set forth elsewhere in this Section 1.2, shall be interpreted in accordance with the following order of precedence (the first being the highest order of precedence):

.1 Applicable Laws (provided, however, and notwithstanding Subparagraph 1.2.19.10, below, where the Contract Documents or manufacturer's recommendations or specifications require standards higher than those of Applicable Laws, the Contract Documents or manufacturer's recommendations or specifications shall control);

.2 Supplemental Work Orders; Change Orders, Unilateral Change Orders and Construction Change Directives;

.3 Addenda;

.4 Work Order

.5 EZIQC Contract;

.6 EZIQC General Conditions EZIQC Supplementary General Conditions;

.7 ;

.8 General Requirements;

.9 Specifications;

.10 Drawings, subject to the following: (1) large scale plans and details take precedence over small scale Drawings in all cases; (2) full scale Drawings have precedence over both large and small scale Drawings in all cases; (3) detailed Plans and/or Drawings shall have precedence over general Plans and/or Drawings; (4) architectural and structural Drawings take precedence over electrical and mechanical Drawings in regard to location and arrangement of fixtures, outlets, and equipment; and (5) electrical and mechanical Drawings take precedence in describing and specifying equipment and in describing the diagrammatic requirements;

.11 standard and reference specifications which include industry norms, such as, but not limited to, ANSI and ASTM; and

.12 Reference Documents.

1.2.20 **Conditions Precedent.** Wording used in the Contract Documents indicating that a right of the Contractor or an obligation of the County is subject to or conditioned upon the occurrence of a condition or event, whether or not such condition or event is within the control of Contractor, County or others and whether or not such condition or event is expressly stated to be a "condition precedent", shall be understood and interpreted to mean that the stated condition or event is a condition precedent to the existence, arising, performance and exercise of such right or obligation.

### 1.3 OWNERSHIP AND USE OF DRAWINGS, SPECIFICATIONS AND OTHER DOCUMENTS

1.3.1 **Property of County.** Subject to the provisions of Paragraph 2.4.4, below, all Design Documents, Contract Documents and Project Documents that are prepared by Contractor or a Subcontractor, of any Tier, for use in connection with the Project, including any designs, building designs or other depictions underlying or shown in them, and the Intellectual Property Rights thereto, shall be deemed the sole and exclusive property of County and ownership thereof is irrevocably vested in County, whether the Project is executed or not.

1.3.2 **Assignment of Rights.** Contractor shall, without further consideration, obtain any and all Intellectual Property Rights in the Project Documents and Design Documents prepared by Contractor or any Subcontractor, of any Tier, for use in connection with the Project, including any designs, building designs or other depictions underlying or shown in them, free and clear of any liens or other encumbrances, claims or rights of third parties, transfer such rights, if necessary in writing, to County and cooperate with County in securing and registering such rights, such that County shall own all Intellectual Property Rights and any other tangible and/or intangible property rights associated therewith. Such transfer and assignment will be effective for the entire duration of the copyrights and include, but are not be limited to, all rights in related plans, specifications, documentation, derivative works and moral rights.

**Contractor's Warranty.** Contractor represents and warrants that the Project Documents and Design Documents prepared by Contractor or any Subcontractor for use on the Project, and the use of such Project Documents in the ordinary course, are free of any claim of infringement or any other violation of any Intellectual Property Right or other right of any third party.

1.3.3 **Non-Exclusive License.** Without derogation of County's rights under this Section 1.3, Contractor and Subcontractors, of every Tier, are granted a limited, non-exclusive license, revocable at will of County, to use and reproduce applicable portions of the Design Documents, Contract Documents and Project Documents as appropriate to and for use in the execution of the Work and for no other purpose.

1.3.4 **Reproduction.** Contractor shall do all reproduction and distribution of such reproducible prints of Contract Documents and Design Documents as are necessary for the complete pricing and performance of the Work, including, without limitation, all Changes. The costs of such reproduction shall be at Contractor's Own Expense.

1.3.5 **Delivery to County.** All Design Documents and Contract Documents (including originals and copies), and one (1) copy of all other Project Documents, in the possession of Contractor or Subcontractors shall be delivered to County upon the earlier of Final Completion of the Work or termination of the Construction Contract; provided, however, that Contractor shall have the right to retain one (1) copy of the Contract Documents and Submittals as a permanent record.

1.3.6 **Subcontractors.** Contractor shall take all necessary steps to ensure that a provision is included in all contracts with Subcontractors, of every Tier, who perform Work on the Project protecting and preserving County's rights as set forth in this Section 1.3.

## **ARTICLE 2 COUNTY RIGHTS AND OBLIGATIONS**

### **2.1 INFORMATION, APPROVALS AND SERVICES REQUIRED OF COUNTY**

2.1.1 **Legal Descriptions.** County shall furnish, within a reasonable time after written request by Contractor, a legal description of the Site and information describing legal limitations affecting the Site that are recorded with applicable Governmental Authorities, such as, but not limited to, easements.

2.1.2 **Permits and Fees.** County shall secure and pay for only those permits and fees which are expressly stated to be the responsibility of County under the Contract Documents. County shall pay for all hook-up fees (not including "tap fees", which are the responsibility of Contractor pursuant to Paragraph 3.14.3, below) in order to establish a new account with a utility provider.

2.1.3 **County Approvals.** Information, approvals and decisions required of County or a County Consultant for which a County Review Period or County Review Date is included in the Construction Schedule that is approved by County shall be provided in accordance with the Construction Schedule. If a County Review Period or County Review Date is not set forth in the Construction Schedule approved by County, then such information, approvals and decisions shall be provided upon written request by Contractor without unreasonable Delay. Notwithstanding the foregoing, failure by County, Architect or a County Consultant to provide any information, approvals or decisions shall not be considered as a basis for Contract Adjustment to the Contract Time unless and until, and in calculating a Contract Adjustment any Delay or extension of the Contract Time resulting from a late-issuance of such information, approval or decision shall not commence until after:

.1 in the case of information, approval or decision for which there is a County-approved County Review Period or County Review Date in the County-approved Construction Schedule, seven (7) Days have passed since the County and the individual from whom such information, approval or decision is sought have received from Contractor a written notice containing all the following:

- (1) a detailed description of the information, approval or decision required;
- (2) a statement that the County Review Period or County Review Date has expired or

passed; and

(3) a statement, prominently displayed, that: "PURSUANT TO PARAGRAPH 2.1.3 OF THE GENERAL CONDITIONS, THE FAILURE TO PROVIDE THE REQUESTED INFORMATION, APPROVAL OR DECISION WITHIN 7 CALENDAR DAYS FROM THIS NOTICE MAY RESULT IN A REQUEST FOR A CONTRACT ADJUSTMENT"; or

.2 in the case of information, approval or decision for which there is no County Review Period or County Review Date set forth in the County-approved Construction Schedule, thirty (30) Days have passed since the County and the individual from whom such information, approval or decision is sought have received from Contractor

a written notice that includes the statements set forth Clauses (1) and (2) of Subparagraph 2.1.3.1, above, and that includes a statement, prominently displayed, that: "PURSUANT TO PARAGRAPH 2.1.3 OF THE GENERAL CONDITIONS, THE FAILURE TO PROVIDE THE REQUESTED INFORMATION, APPROVAL OR DECISION WITHIN 30 CALENDAR DAYS FROM THIS NOTICE MAY RESULT IN A REQUEST FOR A CONTRACT ADJUSTMENT".

**2.1.4 Approvals.** Contractor shall not be relieved of its obligations to perform the Work in accordance with the Contract Documents either by the activities or duties of County, Architect or any other Project Team member, or by tests, inspections or approvals required or performed by persons other than the Contractor.

**2.1.5 Non-Specified Items.** County reserves the right to approve materials and sources of supply of materials that are not specified in the Contract Documents and that are used for the performance of the Work.

## **2.2 COUNTY'S RIGHT TO STOP THE WORK**

If Contractor fails to correct Defective Work as required by Section 13.2 of these General Conditions, fails to perform the Work in accordance with the Contract Documents or violates any Applicable Law, County may immediately order Contractor to stop the Work, or any portion thereof, until the cause for such direction has been eliminated by Contractor. Contractor shall immediately comply with such notice at Contractor's Own Expense. Nothing stated herein or elsewhere in the Contract Documents shall be interpreted as placing upon County a duty or responsibility to Contractor or any other party to exercise its right to stop the Work.

## **2.3 COUNTY'S RIGHT TO CARRY OUT THE WORK**

If Contractor fails to carry out the Work in accordance with the Contract Documents, fails to provide sufficient labor, materials, equipment, tools and services to maintain the Construction Schedule, or otherwise fails to comply with any requirement of the Contract Documents, and fails to cure such failure in the manner required by Subparagraph 15.1.1.4, below, County may correct such failure. In such case, County shall be entitled to recover from Contractor or deduct from payments then or thereafter due Contractor for any Loss resulting from such failure, including compensation for the additional services and expenses of County, County Consultants and others whose services are reasonably required and made necessary thereby. If payments then or thereafter due Contractor are not sufficient to cover such amounts, Contractor shall promptly pay the amount of the shortfall to County.

The County may, by written notice to the Contractor, terminate the right to proceed with the Work or any separable part of the Work. In this event, the County may take over the Work and complete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the site necessary for completing the Work. The Contractor and Contractor's sureties shall be liable for any damage to the County resulting from events of the default, whether or not the Contractor's right to proceed with the Work is terminated. This liability includes any increased costs incurred by the County in completing the Work.

## **2.4 ACCOUNTING, RECORDS AND AUDIT**

**2.4.1 Accounting System.** Contractor shall exercise such controls as may be necessary for proper financial management of the Work. Such accounting and control systems shall comply with prevailing custom and practice for similar projects, be satisfactory to County and shall include preservation of the books and records described in Paragraph 2.4.2, below, subject to Contractor's obligations under Paragraph 1.3.6, above, for a period of ten (10) years after Final Completion of the Work, or for such longer period as may be required by Applicable Laws.

**2.4.2 Books and Records.** Contractor shall keep, and shall require provisions to be included in all contracts entered into by Subcontractors, of every Tier, requiring the Subcontractors, of every Tier, to keep, full and detailed books, records, information, materials and data, of every kind and character (hard copy, as well as computer readable data if it exists) that have any bearing on or pertain to any matters, rights, duties or obligations relating to the Project and all associated Work Orders, Work or Construction, including, without limitation, agreements, purchase orders, leases, contracts, commitments, arrangements, notes, estimates, field orders, construction change directives, schedules, requests for information, diaries, logs, reports, shop drawings, samples, exemplars, drawings, specifications, invoices, delivery tickets, receipts, vouchers, cancelled checks, memoranda, accounting records; job cost reports, job cost files (including complete documentation of negotiated settlements), backcharges, general



ledgers; documentation of cash and trade discounts earned, insurance rebates and dividends, and other documents relating in any way to any claims, charges or time extensions asserted by Contractor or any of the Subcontractors, of any Tier, or relating to any credits, rebates or discounts owing to County.

**2.4.3 Inspection and Copying.** Contractor shall allow, and shall require provisions to be included in all contracts and Work Orders entered into by Subcontractors, of every Tier, allowing, County and the auditor for the State of California (and the authorized representative(s), auditors, attorneys and accountants of each) upon twenty-four (24) hours notice to Contractor, full access to inspect and copy all its aforesaid books and records at a location within the Southern California area. Such right of audit may be exercised by either County or the auditor for the State of California as often as reasonably necessary to verify Contractor's continuing compliance with the Contract Documents.

**2.4.4 Confidential Information.** Nothing stated in this Section 2.4 or elsewhere in the Contract Documents shall be interpreted as a waiver by Contractor or any Subcontractor of any rights of privilege or confidentiality that are provided for by Applicable Law nor as authorizing the inspection of books and records that contain information concerning estimating means or methods that is not, in whole or part, relevant to a charge or demand being asserted by Contractor or a Subcontractor involving Extra Work, Deleted Work, Delay or a Claim.

**2.4.5 Withholding of Payment.** In addition to and without limitation upon County's other rights and remedies for breach, including any rights of County to withhold payment that are set forth elsewhere in the Contract Documents, County shall have the right, exercised in its sole discretion, to withhold from any payment due to Contractor under an Application for Payment a sum of up to ten percent (10%) of the total amount set forth in such Application for Payment until Contractor and the Subcontractors have complied with any outstanding and unsatisfied obligation under this Section 2.4. Upon compliance with this Section 2.4, any such monies withheld shall be released to Contractor.

**2.4.6 Specific Performance.** Contractor agrees that any failure to provide access to books and records as required by this Section 2.4 will result in irreparable harm and prejudice to County and shall, without the necessity of posting of any bond or undertaking, be specifically enforceable by means of a mandatory injunctive order (temporary, preliminary, provisional or otherwise) issued by a court of competent jurisdiction, which order the County and Contractor hereby consent to being issued based upon affidavits and without the necessity of oral testimony.

## **2.5 COUNTY FURNISHED MATERIALS**

**2.5.1 Supply by County.** County shall have the right to furnish materials, products or equipment directly for processing and incorporation by Contractor in lieu of Contractor providing materials, products or equipment specified in the Contract Documents to be provided by Contractor as part of the Work.

**2.5.2 Deleted Work.** If the materials, products or equipment are provided by County pursuant to Paragraph 2.5.1, above, then a Supplemental Work Order and associated Change Order shall be executed deleting such materials, products or equipment from the Work thereby offsetting the value of the original Work Order Amount and reducing the County's cost in the manner provided for in Article 7, below, applicable to Contract Adjustments for Deleted Work.

**2.5.3 Delivery Deadlines.** Without limitation to Contractor's obligations under Article 8, below, upon receipt of written instruction by County of its intent to provide materials, products or equipment pursuant to this Section 2.6, Contractor shall notify County promptly in writing of any deadlines within which such materials, products or equipment must be received at the Site in order to avoid Delay.

**2.5.4 Delivery to Site.** Contractor shall, upon their delivery to the Site, properly receive and unload materials, products or equipment furnished by County pursuant to this Section 2.5.

**2.5.5 Care, Custody and Control.** Contractor assumes full and unconditional responsibility for care, custody and control of the materials, products or equipment that are furnished by County pursuant to this Section 2.5, whether or not they have been accepted by County, and assumes sole responsibility for any subsequent loss, injury or damage thereto occurring prior to Final Completion.

**2.5.6 Notice of Deficiencies.** Contractor shall carefully inspect any materials, products or equipment furnished by County pursuant to this Section 2.5 and immediately notify County of any defect or deficiency in such materials, products or equipment or any nonconformity in such materials, products or equipment with the requirements of the Contract Documents or with the requirements of the other documentation provided to Contractor setting forth the conditions of County's purchase. Contractor shall not accept any materials, products or equipment furnished by County with respect to which Contractor has provided such notice of defect, deficiency or non-conformity unless and until instructed to do so in writing by County.

**2.5.7 Incorporation in Work.** Contractor shall, as part of the Work and without Contract Adjustment, provide any and all processing, fabrication, cutting, shaping, fitting, assembly and installation of materials, products or equipment furnished by County pursuant to this Section 2.5 in full compliance with the requirements of the Contract Documents and the manufacturer's instructions and recommendations.

## **2.6 COUNTY INSTALLED ITEMS**

Contractor shall notify County, a reasonable time in advance, of the Contractor's scheduled dates for installation of items that are specified in the Contract Documents to be placed on, attached to or incorporated into the Work by County or Separate Contractors. In the event that Contractor fails to do so or if due to Unexcused Delay the County is unable after such notice by Contractor to so place, affix or incorporate such items, then Contractor shall be responsible, in addition to any amounts due to County for liquidated damages, to reimburse County for costs of storage or rental of temporary replacement items until such time as the Work is in a condition suitable for such items to be placed, affixed or incorporated.

## **2.7 COUNTY'S ADDITIONAL RIGHTS**

The rights stated in this Article 2 are in addition to and not in limitation of any other rights of County granted elsewhere in the Contract Documents or under Applicable Laws.

# **ARTICLE 3 CONTRACTOR PERFORMANCE**

## **3.1 CONTRACTOR STATUS**

**3.1.1 Independent Contractor.** Contractor is, and shall at all times be deemed to be, an independent contractor and is wholly responsible for the performance of the obligations required of it by the terms of the Contract Documents.

**3.1.2 Agents, Employees.** Contractor wholly assumes responsibility for the acts and omissions of its agents and employees and the agents and employees of each Subcontractor, of every Tier, as they relate to the Work. Contractor, its agents and employees, shall not be entitled to any rights or privileges of County's employees and nothing contained in the Contract Documents and no course of conduct shall be construed as creating the relationship of employer and employee, or principal and agent, between County and any agent or employee of Contractor or any Subcontractor. County shall have the right, but not the obligation, to monitor the employment and other activities of Contractor and the Subcontractors to determine compliance with the terms of the Contract Documents.

**3.1.3 Licenses.** Contractor and the Subcontractors, of every Tier, shall maintain, such contracting, professional and business licenses as may be required by Applicable Laws for the duration of time that Contractor is performing the Work under the Contract Documents, including the period of any warranty provided covering all or any portion of the Work.

**3.1.4 Subcontractors.** Contractor is responsible to County for acts and omissions of the Subcontractors and their agents and employees and other persons performing portions of the Work under a contract with a Subcontractor, of any Tier.

**3.1.5 Design Services.** Contractor shall provide professional services if such services are expressly, or by reasonable implication, required by the Contract Documents for a portion of the Work or are required

in order for Contractor to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences and procedures. Professional design services or certifications so required of Contractor shall be furnished by design professionals exercising the highest standard of care and utilizing designs and engineering that comply with all systems, materials or equipment, performance and design criteria set forth in the Contract Documents. Certification by a properly licensed design professional, including such professional's signature and seal, shall appear on all drawings, calculations, specifications, certifications and other documents prepared by such professional. Submittals related to the Work designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted. County, Architect and County Consultants shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications or approvals performed by such design professionals.

### **3.2 REVIEW OF DOCUMENTS, SITE AND EXISTING IMPROVEMENTS**

**3.2.1 Contractor's Duty of Review.** Contractor's submission of its Bid and execution of the NJPA Indefinite Quantity Construction Agreement constitutes its representation, acknowledgement and agreement that it had sufficient time, access and opportunity prior to the Bid Closing Deadline to conduct a careful and thorough examination, to its satisfaction, of:

**.1** the Bidding Documents, Contract Documents, Reference Documents and other information provided by NJPA to Contractor prior to the Bid Closing Deadline concerning the application and use of the Construction Task Catalog & Specifications (CTC & Specs) in determining the Contractor's ability to successfully perform work under this EZIQC Contract, including but not limited to proper use of detailed line items in the CTC and calculation of associated pricing commensurate with the Contractors means and methods, in determining the bid factors.

**.2** the visible conditions at the Site associated with this EZIQC Contract and associated Work Order and its surroundings, visible conditions of Existing Improvements and their existing uses by County or the public, routes of ingress and egress, and local conditions in the vicinity of the Site (including, without limitation, sources and availability of labor, materials and equipment);

**.3** the status of any construction at the Site associated with this EZIQC Contract and associated Work Order concurrently under construction; and

**.4** all information concerning visible and concealed conditions above and below the surface of the ground at the Site associated with this EZIQC Contract and associated Work Order and in Existing Improvements (including, without limitation, surveys, reports, data, as-built drawings of Existing Improvements and utility sources, capacities and locations) that was either (1) provided by County to Contractor or other Bidders (including, but not limited to, the Bidding Documents and Reference Documents).

#### **3.2.2 Contract Adjustments.**

**.1 Differing Site Conditions.** Except as otherwise provided in Subparagraph 3.2.3, below, the Contractor's right to a Supplemental Work Order in the event Contractor encounters conditions at the Site or in Existing Improvements that vary from those indicated by the Contract Documents, original Work Order or other information that was either reviewed by Contractor or that Contractor was given the opportunity to review prior to the Work Order Deadline shall be governed exclusively by Paragraph 4.3.8, below, pertaining to Differing Site Conditions.

**.2 Design Discrepancies.** Except as otherwise provided in Subparagraph 3.2.3, below, and subject to the Contractor's compliance with the other provisions of the Contract Documents governing the Contractor's right to a Contract Adjustment (including, without limitation, Article 7 and Article 8, below), Contractor shall be entitled to a Supplemental Work Order due to Design Discrepancies, subject to the following conditions and limitations:

**(1) Compensable Change.** There shall be no Supplemental Work Order to the Contract Price for Extra Work that the Contractor is required to perform as a result of a Design Discrepancy unless all of the following conditions have been met prior to Contractor or any Subcontractor performing any portion of the Work involving or affected by such Design Discrepancy:

(a) the circumstances giving rise to such Extra Work conform to all of the requirements of Subparagraph 1.1.29.2 through Subparagraph 1.1.29.4, above, applicable to Compensable Changes;

(b) Contractor has submitted to County and Architect a Request for Information in compliance with Paragraph 3.2.5, below, seeking clarification of such Design Discrepancy;

(c) Contractor has submitted to County a timely and complete Notice of Change in accordance with Article 7, below, describing such Extra Work in detail;

(d) Contractor has received a Construction Change Directive and associated Supplemental Work Order signed by County in accordance with Article 7, below, directing that Contractor perform the portion of the Work in question; and

(e) unless otherwise provided in such Construction Change Directive, Contractor has submitted to County a Supplemental Work Change Order and/or Change Request in accordance with the requirements of Article 7, below, setting forth the particulars of its request for Contract Adjustment via a Supplemental Work Order on account of such Extra Work.

**(2) Compensable Delay.** There shall be no Supplemental Work Order to the Work Order Amount or Work Order Time for Delay as a result of a Design Discrepancy unless all of the following conditions have been met prior to Contractor or any Subcontractor performing any portion of the Work involving or affected by such Design Discrepancy:

(a) if the Delay is the result, in whole or in part, of Extra Work, all of the requirements of Subparagraph 3.2.2.2 (1), (a) through (e), above, have been met;

(b) the circumstances giving rise to such Delay conform to all of the requirements of Subparagraph 1.1.30.2 and Subparagraph 1.1.30.3, above, applicable to Compensable Delay; and

(c) Contractor has submitted to County a timely and complete Notice of Delay and a timely and complete Request for Extension in accordance with Article 8, below, setting forth the particulars of its request for a Supplemental Work Order on account of such Compensable Delay.

**(3) Differing Site Conditions.** The Contractor's right to a Supplemental Work Order as a result of variances between (a) the Contract Documents or other documents or information described in Paragraph 3.2.1, above, that, prior to the Work Order Approval was either reviewed by Contractor or was available to Contractor for review prior to the Work Order Approval and (b) conditions at the Site or in Existing Improvements shall, notwithstanding the fact that the circumstances asserted by Contractor as a basis for such Work Order and or Supplemental Work Order Adjustment may involve, relate to or arise out of a Design Discrepancy, be governed by the provisions of the Work Order Contract Documents setting forth the Contractor's right to Work Order and or Supplemental Work Order Adjustments on the grounds of Differing Site Conditions.

### **3.2.3 WAIVER BY CONTRACTOR.**

**CONTRACTOR AGREES THAT IT SHALL NOT BE ENTITLED TO, AND HEREBY CONCLUSIVELY WAIVES, ANY RIGHT TO CONTRACT ADJUSTMENT, AS WELL AS THE RIGHT TO ANY OTHER OR FURTHER RECOURSE OR RIGHT OF RECOVERY FROM COUNTY, ON ACCOUNT OF LOSSES OR DELAYS THAT ARE A RESULT OF EITHER A DIFFERING SITE CONDITION OR A DESIGN DISCREPANCY, IF PRIOR TO THE WORK ORDER APPROVAL SUCH DIFFERING SITE CONDITION OR DESIGN DISCREPANCY WAS:**

**(1) DISCOVERED BY CONTRACTOR AND CONTRACTOR, NOTWITHSTANDING SUCH DISCOVERY, FAILED TO REPORT SUCH DIFFERING SITE CONDITION OR DESIGN DISCREPANCY TO COUNTY IN WRITING PRIOR TO THE WORK ORDER APPROVAL;**

**(2) ALTHOUGH NOT ACTUALLY DISCOVERED BY CONTRACTOR PRIOR TO THE WORK ORDER APPROVAL WAS REASONABLY DISCOVERABLE BY CONTRACTOR UNDER THE STANDARD**

**OF PERFORMANCE SPECIFIED IN THE CONSTRUCTION CONTRACT, INCLUDING, WITHOUT LIMITATION, A DIFFERING SITE CONDITION OR DESIGN DISCREPANCY THAT WAS OVERLOOKED BY CONTRACTOR DUE TO A FAILURE BY CONTRACTOR TO FULLY FAMILIARIZE ITSELF PRIOR TO THE WORK ORDER APPROVAL DEADLINE WITH ANY OF THE DOCUMENTS, INFORMATION OR CONDITIONS REFERRED TO IN PARAGRAPH 3.2.1, ABOVE.**

**3.2.4 Continuing Obligation.** In addition and without limitation to Contractor's obligations under Paragraph 3.2.1, above, or elsewhere in the Contract Documents, Contractor shall have the continuing obligation until Final Completion to promptly report to County, by means of submission by Contractor of a Request for Information that complies with the requirements of Paragraph 3.2.5, below, any and all of the following:

**.1** information contained in the Bidding Documents, Contract Documents, Reference Documents or other documentation that was either reviewed by Contractor or that Contractor was given the opportunity to review prior to the Work Order approval, as well as any visible conditions at the Site, in Existing Improvements or in the vicinity of the Project, that Contractor knows, or in the exercise by Contractor of its duties under the Standard of Performance should have known, may render a portion of the Work in any respect, wholly or partially, unsuitable or incomplete to meet the requirements of the Contract Documents, the Design Intent or Applicable Laws, and

**.2** conditions in the Work that constitute Defective Work or that cause or are likely to cause any other portion of the Work to be Defective Work.

Without limitation to County's other rights under the Contract Documents, any portion of the Work, Existing Improvements or the work of Separate Contractors or County's own forces requiring replacement, repair or correction due to a failure by Contractor or any Subcontractor, of any Tier, to comply with its continuing obligation under this Paragraph 3.2.4 shall be promptly replaced, repaired or corrected to County's satisfaction, at Contractor's Own Expense.

**3.2.5 Requests for Information.**

**.1 Time for Submittal.** Requests for Information shall be submitted no later than three (3) Days after the date Contractor learns of the circumstances giving rise to the question contained in the Request for Information. Requests for Information shall be submitted by or through the Contractor and not directly by Subcontractors.

**.2 Content.** Each Request for Information shall, in addition to the Contractor's specific question or request, include the following:

**(1)** a detailed description of the circumstances giving rise to the Contractor's request or question, including, without limitation, any related Design Discrepancy;

**(2)** Contractor's request for clarification, including, without limitation, any request for further detailing or correction of the Contract Documents; and

**(3)** a statement of whether Contractor believes it is entitled to a Contract Adjustment by reason of the circumstances described.

**.3 Form.** Contractor shall submit Requests for Information using forms provided or approved by County.

**.4 Unnecessary, Multiple Requests.** Contractor shall carefully review, coordinate and consolidate (where appropriate to prevent piecemeal submission) Requests for Information (whether originating with Contractor or the Subcontractors) prior to submitting them in order to eliminate unnecessary or duplicative requests.

**.5 Responses.** Responses to Requests for Information shall be furnished with reasonable promptness so as to not unreasonably Delay progress of the Work; provided, however, that the timing of a response

by the Architect, County or a County Consultant to a Request for Information shall not constitute grounds for a Contract Adjustment unless Contractor has complied with the requirements set forth in this Paragraph 3.2.5 and, if applicable, Paragraph 2.1.3, above.

**.6 Back Charges by County.** County shall have the right to deduct from payments due to Contractor sums expended by County for the services of the Architect, Inspectors of Record or County Consultants due to a failure by Contractor to comply with this Paragraph 3.2.5.

#### **.7 WAIVER BY CONTRACTOR.**

**FAILURE BY CONTRACTOR TO SUBMIT A REQUEST FOR INFORMATION IN ACCORDANCE WITH AND UNDER CIRCUMSTANCES IN WHICH A REQUEST FOR INFORMATION WAS REQUIRED BY THIS PARAGRAPH 3.2.5 SHALL RESULT IN CONTRACTOR WAIVING ITS RIGHT TO A CONTRACT ADJUSTMENT ON ACCOUNT OF ANY LOSS OR DELAY THAT COULD HAVE BEEN AVOIDED IF SUCH REQUEST FOR INFORMATION HAD BEEN PROPERLY PREPARED AND TIMELY SUBMITTED.**

**3.2.6 Correction of Work.** Contractor shall, at Contractor's Own Expense, correct or replace in accordance with the direction of County any portion of the Work that is performed by Contractor or a Subcontractor knowing that it involves, or that Contractor or Subcontractor in the exercise of reasonable care and diligence should have known involves, a portion of the Contract Documents that contains an error, omission, conflict, ambiguity, lack of coordination or noncompliance with Applicable Laws, without first notifying and obtaining the written approval of County and Architect.

### **3.3 SUPERVISION AND CONSTRUCTION PROCEDURES**

**3.3.1 General Obligation.** Contractor shall provide competent, fully qualified personnel to supervise, administer, manage and direct the Work, competently and efficiently, at all times devoting their best skill and attention to perform the Work in accordance with the Contract Documents.

**3.3.2 Supervisory Staff.** Contractor shall employ a competent project manager, superintendent, scheduler, forepersons and necessary assistants during performance of the Work. Contractor's superintendent and forepersons shall be present at the Site at all times that the Work is in progress and at any time that any employee of Contractor or a Subcontractor is present at the Site. Contractor's project manager and superintendent shall, unless excused from attendance by the County, attend all job meetings. Contractor's project manager and superintendent must be able to fluently read and write in English. Contractor's superintendent shall not perform the Work of any trade, pick up materials, or perform any Work not directly related to the supervision of the Work and shall be available twenty-four (24) hours a Day, seven (7) Days a week, to respond to emergencies.

**3.3.3 County Supplementary Personnel.** Without limitation upon any of the rights or remedies of the County under the Contract Documents or under Applicable Laws, in the event that Contractor fails to have personnel on Site to supervise the Work, the County shall have the right, but not the obligation, upon twenty-four (24) hours' telephonic or email notice by the County to Contractor, to provide such supervision on a temporary basis and to deduct from the sums owing to Contractor the actual costs of such temporary supervision. Contractor shall, notwithstanding the County's providing such temporary supervision, remain solely responsible for all actions and omissions of its personnel and of the Subcontractors.

**3.3.4 Means, Methods, Procedures.** Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences and procedures and coordinating all portions of the Work, unless the Contract Documents specify other specific instructions concerning these matters. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences or procedures, Contractor shall nonetheless be fully and solely responsible for the adequacy and safe implementation of such means, methods, techniques, sequences or procedures. If Contractor believes that such specified means, methods, techniques, sequences or procedures may not be safe or adequate, Contractor shall give written notice to County and Architect and shall not proceed with that portion of the Work without further written instruction from County or Architect. In response to such notice, County may order Contractor to improve the character or increase the efficiency of the means, methods, techniques, sequences or procedures employed, and Contractor shall conform to such order; but the failure of County to order such improvement or increase of efficiency will neither relieve Contractor from its

sole responsibility for safety at the Site nor relieve Contractor from its obligation to perform the Work in accordance with the Contract Documents and Applicable Laws.

### 3.3.5 **Ordering Procedures:**

.1 As the need exists for performance under the terms of the EZIQC Program, the County will notify the Gordian Group Project Manager (Gordian PM) of a proposed Work Order Project.

.2 Upon receipt of this notification, the Gordian PM shall work with the County representative to select a Contractor with a current, approved NJPA Indefinite Quantity Construction Agreement who is best suited and able to respond to the needs of the County within two working days by:

- (1) Establishing verbal contact with the County and the Gordian PM to further define the scope of the proposed Work Order, and
- (2) Visiting the proposed work site in the company of a County representative and the Gordian PM, and participating in the conduct of a scope validation site visit and conference which will include discussion and establishment of the following:
  - .1 Project number and title
  - .2 Existing site conditions
  - .3 Methods and alternatives for accomplishing work
  - .4 Definition and refinement of requirements
  - .5 Detailed scope of work
  - .6 Requirements for plans, sketches, shop drawing etc.
  - .7 Tentative work schedules
  - .8 Preliminary quantity estimates
- (3) Upon completion of the scope validation meeting, the Gordian PM will issue a Request for Proposal which requires that the Contractor prepare a proposal for the Work under consideration.
- (4) The Contractor will prepare the Proposal, which shall include but not be limited to the following:
  - .1 Firm fixed price proposal
  - .2 Schedule in a form as required by the County.
  - .3 Subcontractor list including the price to be paid to each subcontractor and any shop drawings or other information required for the County to be able to review the price proposal.
- (5) Processing Time Limits
  - (a) Request for Proposal Submittal: The Contractor shall submit the Proposal for the Project on or before the due date stated in the Request for Proposal (RFP). Time shall be 14 days maximum unless otherwise specified.
  - (b) Request for Information Submittal: The Contractor shall make a thorough analysis of each proposed Job Order and submit all Requests for Information (RFI's) within 7 days after issuance of any RFP. Submission of RFI's shall in no way extend the proposal due date unless deemed necessary by the County's Project Manager and the Gordian PM.

(c) Proposal Review: Contractor's project manager or agent shall be available for proposal review meetings within 24 hours of being notified by the County (via faxes, e-mail, telephone, etc.). After review of the Proposal, the Contractor shall remove all inappropriate line items and adjust quantities as directed by the County's Project Manager and the Gordian PM.

(d) Revised Proposal: The Contractor shall submit a revised Proposal within 24 hours of proposal review meeting (unless otherwise specified). Upon review of a revised Proposal, the Contractor shall remove all line items or adjust quantities deemed inappropriate by the County's Project Manager and re-submit the Proposal with 24 hours. No new line items may be added to the Proposal. No quantities increased or added modifiers will be accepted unless agreed to by the County during any needed second proposal review meeting.

(e) Enforcement: Processing time limits described herein are of the essence to all EZIQC Contracts. Failure to comply with these time limits may result in termination of the subject EZIQC Contract.

(6) Pre-priced work requirements: Pre-priced work requirements will identify the type and number of work units required from the Construction Task Catalog. The price per unit set forth in the Construction Task Catalog shall serve as the base price for the purpose of the operation of this article. The Contractor's Proposal shall include support documentation to indicate that adequate engineering and planning for the requirement has been done, and that the work units proposed are reasonable for the tasks to be performed. Documentation to be submitted with the Proposal shall include, but not be limited to, drawings, calculations, catalog cuts, specifications, and architectural renderings.

(7) Non-Prepriced Work Requirements: Units of work not included in the Construction Task Catalog but within the general scope and intent of this EZIQC Contract may be negotiated into this EZIQC Contract as needs arise. Such work requirements shall be incorporated into and made a part of this EZIQC Contract and the Work Order to which they pertain, and may be incorporated into the Construction Task Catalog if determined appropriate by the NJPA at the base price determined in this article. Non-prepriced work requirements shall be separately identified and submitted in the Work Order proposal. Information submitted in support of non-prepriced work shall include, but not be limited to, the following:

- .1 Complete specifications and technical data, including work unit content, work unit costs data, quality control and inspection requirements.
- .2 Work schedule, this will include an update for other projects concurrently under construction and how these projects will affect the new project.
- .3 Pricing data submitted in support of non-prepriced work units shall include a cost or price analysis report, establishing; the basis for selecting the approach proposed to accomplish the requirements. Unless otherwise directed by the County, costing data will be submitted demonstration that the Contractor sought and received three quotes.

The Contractor shall provide an installed unit price (or demolition price if appropriate) which shall include all costs required to accomplish the Non-Prepriced Task.

- .4 The final price submitted for Non Prepriced Tasks shall be according to the following formula:

#### **CONTRACTOR PERFORMED DUTIES**

A= Direct Labor Costs and Fringe Benefits per Prevailing Wage Rates.

B= Direct Material Costs (supported by quotes)

C= Direct Equipment Costs (supported by equipment amortization data)

D= Allowable Overhead Costs = A x 55%

(This includes Workers Compensation insurance).



E= Allowable Profit = (A+B+C) x 10%

Subcontractor Performed Duties

F= Cost of Subcontractors to Contractor (supported by quotes)

G= Contractor's Allowance for Subcontractor Cost = F x 5%

H= Contractor's Overhead for Subcontractors Costs in accordance with the following schedule:

F x 0% for Non-Prepriced (NPP) Tasks < 10% of total Work Order Value

F x 7% for NPP Tasks 10-20% of total Work Order Value

F x 10% for NPP Tasks > 20% of total Work Order Value

The final value of the NPP Task will be:

A+B+C+D+E+F+G+H

Following approval by the County of a Non-Pre-Priced Task and unit price, the Non-Pre-priced Task unit price will be entered into the computer data base.

- .5 The total extended price for the Non-Pre-Priced Task will be determined by multiplying the unit price by the quantity required. The price offered in the Proposal will be determined by multiplying the total extended price by the adjustment factor identified in the applicable NJPA Indefinite Quantity Construction Agreement which is 1.1892 for this EZIQC Contract.
  - .6 After using a Non-prepriced item on three separate Work Orders, the unit price for the work item will be negotiated and fixed as a permanent pre-price item which will no longer require price justification.
  - .7 The County will evaluate the proposed work unit and compare them with the independent County estimate of the same tasks to determine the reasonableness of approach, including the nature and number of work units proposed. The County will determine whether the Contractor's Work Order Proposal is in line with its own estimate.
  - .8 Following agreement on non-prepriced work unit content and price, the work unit price will be adjusted to a work unit base price equivalent to the price of work units contained in the Construction Task Catalog. This base price shall be developed by dividing the agreed-upon unit price by the Contractor's adjustment factor currently in effect for requirements to be accomplished during normal working hours.
  - .9 The base prices determined will be multiplied by the number of work units required to determine the extended base unit price, which will be converted to the Work Order firm fixed-price by multiplying the extended base unit price by the appropriate current Contractor's adjustment factor.
- (8) Each Work Order shall state the agreed upon requirements and fixed price of performance, the schedule for the Work, and shall cite the funds allotted for payment of the Work ordered and the item number, description, quantity, unit price and extended price (i.e. unit price times number of units) separated between prepriced and non-prepriced units and separated between regular and overtime efforts; applicable adjustment factors, and totaled to include the firm-fixed price for the order. All clauses of this EZIQC Contract shall be applicable to any Work Orders issued under this clause. Work Orders will be accomplished on an appropriate form which the Contractor shall sign a copy of evidencing acceptance of the Work Order.
  - (9) The County reserves the right to reject a Contractor Proposal based on unjustifiable quantities, performance periods, inadequate documentation, or other inconsistencies on the Contractor's part. The Contractor has the obligation to confirm the quantities shown in the Contractor's proposals. The County has the right to require the Contractor to prove the quantities shown in the Proposals by providing sketches, drawings or plans as necessary.

The County also reserves the right to not award a Work Order if County's requirement is no longer valid. In these instances, the Contractor has no right of claim to recoup Proposal expenses. The County also reserves the right to pursue completion of any or all work included in a rejected Work Order by other contracting means when an agreement was not reached with the Contractor.

- (10) By submitting a signed Proposal to the Project Manager, the Contractor is agreeing to accomplish the work outlined in the RFP for that particular Work Order. It is the Contractor's responsibility to include the necessary scope items in the Proposal prior to issuing it to the Project Manager. Errors and omissions in the proposal shall be the responsibility of the Contractor. The Contractor's Proposal shall be valid for the entire term of the NJPA Indefinite quantity construction Agreement and in accordance with all terms and documents associated with the same.

### **3.4 LABOR, MATERIALS AND EQUIPMENT**

**3.4.1 Costs of Work.** Contractor shall provide and pay for labor, materials, tools, equipment, machinery, water, heat, utilities, transportation, facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether incorporated or to be incorporated into the Work.

**3.4.2 Coordination.** Contractor shall provide supervision sufficient to ensure proper coordination for the timely and efficient performance and completion of the Work.

**3.4.3 Field Conditions.** Before commencing the Work or any activities on the Site, Contractor shall take field measurements and verify field conditions and carefully compare such field measurements and conditions with the information in the Contract Documents and other information obtained by or available to Contractor.

**3.4.4 Layout.** Contractor is solely responsible for (1) the accurate layout of all portions of the Work, (2) the accuracy of the Project lines and levels, (3) erection of the Work square, plumb, level, true to line and grade, in the exact plane, and to the correct elevation and (4) sloping of surfaces to drain as indicated by the Contract Documents, or, if not indicated, as needed to provide for adequate drainage.

#### **3.4.5 Materials, Equipment**

**.1 Delivery, Storage, Inventory.** Materials and equipment shall be: (1) furnished in ample quantities and at such times as to ensure uninterrupted progress of the Work; and (2) if located on the Site, properly stored and protected as reasonable and necessary, or as directed by County, to prevent Loss from any foreseeable cause, including, without limitation, theft. In the event that County gives direction as to the location for storage or protection of materials or equipment on the Site, Contractor shall nonetheless remain solely responsible for its safe and secure storage and protection. No part of any such stored materials and equipment shall be removed from its place of storage except for immediate installation in the Work. Contractor shall keep an accurate inventory of all such stored materials and/or equipment in a manner satisfactory to County.

**.2 Purchases.** Contractor shall place orders for materials and/or equipment as specified so that delivery of same may be made without Delay to the Work. Contractor shall, upon request from County, furnish to County documentary evidence showing that orders have been placed. County reserves the right in the event Contractor fails, within three (3) Days after receipt of written notice by County to Contractor to comply with the requirements of this Subparagraph 3.4.5.2, to comply with the requirements of this Subparagraph 3.4.5.2, to deduct the costs paid or payable by County associated with such purchases from payments otherwise owing to Contractor. Contractor shall, if requested by County, accept assignment of any such contracts entered into by County without a Contract Adjustment.

**.3 Title.** No material, supplies or equipment for the Work shall be purchased subject to any chattel mortgage or under a conditional sale or other agreement by which an interest therein or in any part thereof is retained by seller or supplier. Contractor warrants good title to all material, supplies and equipment installed or incorporated in