



**SUBMITTAL TO THE RIVERSIDE UNIVERSITY HEALTH SYSTEM MEDICAL CENTER GOVERNING BOARD  
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



**ITEM: 15.4**  
(ID # 14066)

**MEETING DATE:**

Tuesday, December 15, 2020

**FROM:** RUHS-MEDICAL CENTER:

**SUBJECT:** RIVERSIDE UNIVERSITY HEALTH SYSTEM-MEDICAL CENTER: Approval to adopt Resolution 2020-258 to approve a Professional Services Agreement with GI Endurant, LLC without securing competitive bids for Maintenance of the Riverside University Health System Medical Center, effective December 15, 2020; 1 year; All Districts. [Total Cost \$819,000; up to 10% in additional compensation; 100% - Hospital Enterprise Fund 40050]

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

1. Adopt Resolution 2020-258, A Resolution of the Board of Supervisors of the County of Riverside to Approve Professional Services Agreement without a competitive process for design of a Riverside University Hospital Medical Center Project necessary for critical care pursuant to state and local COVID-19 Proclamations and Government Code Section 53060;
2. Approve the Professional Service Agreement with GI Endurant, LLC without securing competitive bids to provide maintenance of the Riverside University Health System Medical Center (RUHSMC) for one year, effective December 15, 2020, for a total amount of \$819,000 and authorize the Chairman of the Board to sign the Agreement on behalf of the County; and

**ACTION:** Policy


  
 Jennifer Crulkowski, Chief Executive Officer - Health System 12/1/2020

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**MINUTES OF THE GOVERNING BOARD**

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

Ayes: Jeffries, Spiegel, Washington, Perez and Hewitt  
 Nays: None  
 Absent: None  
 Date: December 15, 2020  
 xc: RUHS-MC

Kecia R. Harper  
 Clerk of the Board  
 By:   
 Deputy

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3. Authorize the Purchasing Agent, in accordance with Ordinance No. 459 and based on the availability of funding and as approved by County Counsel, to sign amendments including modifications of the statement of work that stay within the intent of the Agreement and to sign amendments to the compensation provisions that do not exceed the total sum of ten percent (10%) of the contract amount.

<b>FINANCIAL DATA</b>	<b>Current Fiscal Year:</b>	<b>Next Fiscal Year:</b>	<b>Total Cost:</b>	<b>Ongoing Cost</b>
<b>COST</b>	\$ 719,000	\$ 100,000	\$ 819,000	\$ 0
<b>NET COUNTY COST</b>	\$ 0	\$ 0	\$ 0	\$ 0
<b>SOURCE OF FUNDS: 100% Hospital Enterprise Fund - 40050</b>			<b>Budget Adjustment: No</b>	
			<b>For Fiscal Year: 20/21-21/22</b>	

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

**BACKGROUND:**

**Summary**

The requested Board action will approve a sole source and Professional Services Agreement (PSA) with GI Endurant LLC (dba GI Energy) (GIE) for the AHU Maintenance project and related energy projects at Riverside University Health System (RUHS) – Medical Center.

Riverside University Health System (RUHS) – Medical Center, then known as Riverside County Regional Medical Center, opened its doors to the public in Moreno Valley, CA on March 31, 1998. Since that day the facility has been served by a series of rooftop mounted air handling devices which control the heat, humidity and quality of air brought into the facility. Many of the hospital's critical services – the intensive care units, operating rooms and Emergency Department - are all served by one set of these air handlers. The existing Air Handling Units (AHUs), original to the building, are near or have reached the end of useful serviceable life and now require replacement of specific elements and rehabilitation of the entire air handling system. The rehabilitation of this aging infrastructure is required in order to maintain consistent temperatures and humidity parameters in the operating rooms and critical care units. These services will insure the continued, uninterrupted, high level of patient care provided at the Medical Center.

The controls system used for managing the air handlers is also original to the building. Together with AHUs, these original systems currently are challenged in maintaining required temperatures and levels of humidity for the functions that take place in the building. In addition, failure of any of the units would create the need to close down operations in up to a quarter of the critical care building until repairs could be completed.

Replacement is not a simple matter of purchasing new equipment and swapping it in where the current AHUs are located. Each unit provides air to a portion of four different areas within the building housing the most critical services at the Medical Center. Detailed coordination and

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planning is required to avoid disruption of patient care during infrastructure upgrades and to provide temporary air to all those floors while the AHUs are replaced. In addition, the AHUs are connected to individual areas through a complex network of internal ducts which must be examined, cleaned and, most likely, in some places repaired before the new units can be placed into service and their performance tested. The design for these replacements and the temporary operations plans will have to meet the standards and approval of California's Office of Statewide Health Planning and Development (OSHPD).

**An experienced partner with a proven record of delivering energy savings – GI Endurant, LLC:** After careful research, RUHS Medical Center leaders identified a partner who proposed a public private partnership – a P3 approach – to replacing the AHUs and other possible energy savings at the Medical Center that could help fund that replacement. That partner, GI Endurant, LLC (dba "GI Energy") (GIE), is actually well known to the County for its redesign (in 2011) and continued maintenance since of the Cogeneration plant at the Southwest Justice Center. That redesign and GIE's maintaining of the Plant was estimated to have saved the County \$3.5 million (Item 3-10, November 1, 2016) during its first five years of operation. GIE also worked on the redesign and refurbishment of the Cogeneration plant at the Medical Center as a subcontractor to Angeles Contractors.

In this situation, GIE has worked extensively to understand the challenges of the Medical Center's AHU maintenance project and to develop a proposal that will address both the immediate, emergent need to replace the AHUs but also other energy needs of the Medical Center. GIE's roles will be managing the design effort, ensuring performance by its subcontractors, conducting competitive bidding, procurement and installation.

GIE has also located and received commitments from two other critical members of a team: Mesa Energy Systems, which will provide evaluation, design development and engineering services; and Redaptive, Inc., which will provide financing and performance under the Energy Services Agreement.

The County has already used the services of a third party engineering firm to perform an independent peer review of GIE's proposal for engineering services and basis of design documents proposal; the PSA further provides for the use of an independent "commissioning agent" during design development and construction.

The proposed project would take place in three phases:

- (1) Design phase:** The design phase covered by the proposed Professional Services Agreement, would be completed within 150 days and cover the design of both the AHU replacement project and a series of energy related projects on the Medical Center campus, including some or all of the following:

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- a) Hospital-wide lighting retrofits subject to OSHPD approval;
- b) Building Management System (BMS) upgrade or replacement and equipment retro-commissioning for incremental energy efficiency benefits;
- c) Photovoltaic solar to reduce imported electricity from Southern California Edison (SCE);
- d) Expansion of the current cogeneration plant's generation capacity to reduce imported electricity from SCE and produce chilled water with recovered heat;

At the completion of this phase, GIE would have completed and submitted to the County:

- (a) a set of drawings of the AHU project ready for submission to OSHPD;
- (b) a "Not to Exceed" price for the AHU rehabilitation project and budget estimates and proposals for the other possible energy related projects described above; and
- (c) the final proposed terms of an "Energy Savings and Resource Optimization Agreement" (ESA) which will include a financing plan for the proposed projects through a series of lease back payments and the expected energy savings;

**(2) Review phase:** The PSA Proposed for approval by this Board does not bind the County to complete any of the projects designed or budgeted by GIE. However, it does provide for compensation in the amount not to exceed \$719,000 for the investigation and design work completed through the design phase outlined in the PSA and also a separate amount for completion of the OSHPD review process by GIE even if the County determines not to enter into the ESA. The County, in summary, will at a minimum own the design plans for the AHU rehabilitation project, including the copyright of that design, as a result of this PSA. The County will also be free to choose among the various energy savings projects designed by GIE to offset the total amount financed through the leasing provisions.

**(3) Approval, construction and use phase:** If this Board approves execution of the ESA, the design and construction of the energy savings projects will begin while GIE submits the AHU rehabilitation project to OSHPD for approval. After OSHPD approval, the AHU project will begin. Lease payments would begin as individual

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parts of the projects come on line and begin providing energy savings and/or operational improvements at the Medical Center.

**Impact on Residents and Businesses**

This Agreement will improve patient care by providing for better control of the heat, humidity and quality of air brought into the Medical Center.

**Additional Fiscal Information**

The source of funding will be Hospital Enterprise Fund at 100%.

**Contract History and Price Reasonableness**

Replacement of major building service components like AHUs is a costly infrastructure investment and while the new units will probably create some operational savings by being more energy efficient than ones designed before 1998, RUHS determined that the energy savings would not meet the added capital expense of a traditional design and build process limited to just these units. An independent estimate obtained by RUHS for the cost of design and construction costs of replacing the units came in at more than \$17 Million.

**ATTACHMENTS:**

**Attachment A:**      **RESOLUTION NO. 2020-258 A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF RIVERSIDE TO APPROVE PROFESSIONAL SERVICES AGREEMENT WITHOUT A COMPETITIVE PROCESS FOR DESIGN OF A RIVERSIDE UNIVERSITY HOSPITAL MEDICAL CENTER PROJECT NECESSARY FOR CRITICAL CARE PURSUANT TO STATE AND LOCAL COVID-19 PROCLAMATIONS AND GOVERNMENT CODE SECTION 53060**

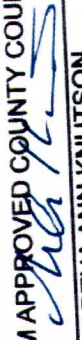
**Attachment B:**      **PROFESSIONAL SERVICE AGREEMENT WITH GI ENDURANT, LLC (DBA GI ENERGY)**

  
Brianna Lentajo, Management Analyst      12/10/2020

  
Gregory H. Priarios, Director County Counsel      12/4/2020

RESOLUTION NO. 2020-258

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF RIVERSIDE TO  
APPROVE PROFESSIONAL SERVICES AGREEMENT WITHOUT A COMPETITIVE PROCESS  
FOR DESIGN OF A RIVERSIDE UNIVERSITY HOSPITAL MEDICAL CENTER PROJECT  
NECESSARY FOR CRITICAL CARE PURSUANT TO STATE AND LOCAL COVID-19  
PROCLAMATIONS AND GOVERNMENT CODE SECTION 53060

FORM APPROVED COUNTY COUNSEL  
BY:  MARTHANN KNUTSON  
DATE

11 WHEREAS, certain combined air handling, heating, ventilation, humidity control and power  
12 systems and components of the Riverside University Health System Medical Center located in Moreno  
13 Valley, CA (“**RUHS-MC**”), in the County of Riverside (“**County**”) are near or have reached the end of  
14 useful serviceable life, and now require replacement of specific elements and rehabilitation of the entire  
15 air handling system in order to maintain consistent temperature and humidity parameters in operating  
16 rooms and critical care areas; and

19 WHEREAS, in order to maintain the proper operation of the **RUHS - MC**, including, but not  
20 limited to the minimum efficiency reporting values (MERV) air quality filtration and humidity  
21 requirements needed to treat special surgery types (orthopedic, bone marrow, organ transplant), to provide  
22 protective environment rooms for patients, including COVID-19 patients, and for neonatal intensive care  
23 units (“**Critical Care**”), the County must promptly contract for design services to replace certain elements  
24 and rehabilitate the combined heating, ventilation, humidity control and power systems and components  
25 in the Medical Center’s Building F, and implement various related improvements to the air handling units  
26 system (“**AHUs**”), which may or may not be financed through a separate energy service and resource

1 optimization agreement (“**ESA**”), to be approved by the Board in approximately 150 to 180 calendar days  
2 from the effective date of the PSA and which may or may not include installation of energy conservation  
3 and cogeneration measures for the RUHSMC power systems (the “**Project**”); and  
4

5 WHEREAS, the condition of the AHU at the RUHSMC, if left unabated, will result in a threat to  
6 health and safety for those patients needing Critical Care and thus will create a threat to the health and  
7 safety of the population in the County; and  
8

9  
10 WHEREAS, addressing the needs of those needing Critical Care requires swift action and delay  
11 will only exacerbate the risk to the health and safety of the population of the County including, but not  
12 limited to, the COVID-19 risk to the County’s population; and  
13

14 WHEREAS, on March 4, 2020, Governor Gavin Newsom issued a Proclamation of a State of  
15 Emergency due to the introduction of the novel corona virus (“COVID-19”) in the state of California; and  
16

17  
18 WHEREAS, on March 8, 2020, the County’s Public Health Officer declared a local health  
19 emergency based on an imminent and proximate threat to public health from the introduction of COVID  
20 in the County; and  
21

22 WHEREAS, on March 10, 2020, the County’s Board of Supervisors (“**Board**”) issued Resolution  
23 No. 2020-062 proclaiming the existence of a local emergency regarding COVID 19; and  
24

25  
26 WHEREAS, many COVID-19 patients require Critical Care. which needs will be unmet without  
27 approval of the PSA and the Project.  
28

1  
2           WHEREAS, California Government Code section 53060 (“Section 53060”) authorizes the Board  
3 to contract with and employ any persons for the furnishing of special services and advice in financial, and  
4 engineering matters if such persons are specially trained and experienced and competent to perform the  
5 special services required; and  
6

7  
8           WHEREAS, the County wishes to engage GI Endurant LLC (d/b/a GI Energy), a Delaware  
9 limited liability company (“GIE”) to provide design, financing and management for certain pre-  
10 construction activities for the Project. as more fully described in the proposed professional services  
11 agreement attached hereto as Exhibit B (“PSA”) on a negotiated “sole-source” basis without the time or  
12 expense of a competitive selection process; and ,  
13

14  
15           WHEREAS, the County, previously contracted with GIE in 2011 for equipment services and again  
16 in 2016 for maintenance for the Southwest Justice Center Cogeneration Plant and GIE’s performance has  
17 been satisfactory; and  
18

19           WHEREAS, based on County’s experience with GIE, based on the qualifications and experience  
20 of GIE, its team members and key personnel set forth in the proposal and basis of design documents  
21 attached hereto as Exhibit C, and a result of an independent third party peer review of GIE’s proposal for  
22 engineering services and basis of design documents, RUHSMC staff and consultants are satisfied that GIE  
23 has the qualifications and demonstrated competence to prepare the specialized engineering design  
24 documents for the Project necessary to obtain approval by the Office of Statewide Health Planning and  
25 Design at a fair and reasonable price, which compensation to GIE under the PSA is currently estimated to  
26 be in the range of \$487,000 to \$619,000.  
27  
28



1  
2 WHEREAS, GIE has the specialized training and experience to provide financing for the PSA and  
3 the Project.

4  
5  
6 WHEREAS the compensation to GIE under the PSA will either be:

7 1) due in full within approximately 150 to 180 days after the effective date of the PSA if  
8 the County determines not to sign the ESA based on cost or other factors, in which case, County  
9 will own PSA plans including the copyright, for any purpose in connection with the construction  
10 of the Project or portions thereof, when the County's budget allows for such construction; or

11  
12 2) financed over a 1 to 20-year period commencing on or about July 1, 2021, together with  
13 the financed costs of construction of all or a portion of the Project if the City elects to sign the  
14 ESA, which County financing payments will be funded, in significant part, through cost savings  
15 realized from the energy conservation and energy generation measures of the Project.  
16  
17

18 WHEREAS, given that because of the budget shortfall caused by the current pandemic the County  
19 does not currently have sufficient funds to pay for the estimated cost of both design and construction of  
20 the Project, the attendant public benefit of GIE financing will result in completion of the Project more  
21 quickly and for less than it would cost through a competitive selection process involving a request for  
22 qualifications and request for proposals, and significantly more quickly and will allow the County to more  
23 quickly meet the Critical needs of its residents, despite County's current budget shortfall; and  
24

25  
26 WHEREAS, the need to replace the RIHSMC AHU and related systems requires an expeditious  
27 response and responsible use of valuable County resources; and  
28

1  
2 WHEREAS, calling upon organizations such as GIE to provide their expertise will result in a  
3 more expeditious response to complete the Project when compared to alternative, multi-step processes,  
4 thus providing significant value to the County while preserving its valuable resources; and

5  
6 NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of the County of Riverside, in  
7 consultation and agreement with the Riverside University Health System:  
8

- 9
- 10 1. Find that the condition of the critical care building AHUs at the RUHSMC if left unabated, will  
11 result in a threat to health and safety for those needing Critical Care in the County and that  
12 addressing the needs of those residents requires swift action and delay will threaten the public  
13 health, welfare and safety of the those living within the County.  
14
  - 15 2. Find the Project and the services described in the PSA , are in the best interest of the County and  
16 the general public, support the services offered by GIE, meet the needs of the population of the  
17 County and therefore will further the goals of the County by enhancing RUHSMC's ability to  
18 provide Critical Care services to the residents of the County during the current COVID-19  
19 pandemic and in the future.  
20
  - 21 3. Deem the Project and the PSA services to be necessary to assist in meeting the aforementioned  
22 needs of the County.  
23
  - 24 4. Find GIE, its personnel, and consultants, are specially trained, qualified, experienced and  
25  
26 competent to provide specialized engineering and financing services for the Project in accordance  
27  
28

1 with Government Code section 53030, which engineering and financing services are unusual and  
2 unavailable within the County, as County does not have personnel with the specialized knowledge  
3 and skill necessary to perform the engineering design of the Project and does not have the current  
4 budget or public financing needed for both the design and construction of the Project.

- 5
- 6 5. Find that the County may forgo the competitive selection process for the design and financing of  
7 the Project because the process would not result in an economic advantage for the County.  
8
- 9
- 10 6. Approve the PSA, and authorize the Chairman of the Board to execute the PSA in substantial  
11 conformance with the form of PSA, as approved by County Counsel.

12 ROLL CALL:

13 Ayes: Jeffries, Spiegel, Washington, Perez and Hewitt  
14 Nays: None  
15 Absent: None

16 The foregoing is certified to be a true copy of a resolution  
17 duly adopted by said Board of Supervisors on the date therein set  
18 forth.

18 Kecia R. Harper, Clerk of said Board

19  
20 By   
21 Deputy

**PROFESSIONAL SERVICES AGREEMENT  
FOR MAINTENANCE OF THE  
RIVERSIDE UNIVERSITY HEALTH SYSTEM MEDICAL CENTER BETWEEN  
COUNTY OF RIVERSIDE AND GI ENDURANT, LLC**

This PROFESSIONAL SERVICES AGREEMENT (“**Agreement**”), dated and effective as of December 15, 2020 (the “**Effective Date**”), is by and between GI Endurant LLC (d/b/a GI Energy), a Delaware limited liability company (“**GIE**”), and the County of Riverside, California, a political subdivision of the State of California (“**County**”). GIE and County are sometimes individually referred to in this Agreement as a “**Party**” and collectively as the “**Parties**.”

**RECITALS**

WHEREAS, the certain combined heating, ventilation, humidity control and power systems and components of the Riverside University Health System Medical Center located in Moreno Valley, CA, the County are near or have reached the end of useful serviceable life, and now require replacement of specific elements and rehabilitation of the entire air handling system in order to maintain consistent temperature and humidity parameters in the Building F operating rooms and critical care areas (“**Host Facility**”), and

WHEREAS, in order to maintain the proper operation of the Riverside University Health System Medical Center, the County must promptly replace certain combined heating, ventilation, humidity control and power systems and components in Building F, and implement various related improvements and energy service performance measures, more fully described in the attached Exhibit A, Project Description, (the “**Project**”), the attached Exhibit B, Schedule of Work and Break Fee, and in the attached Exhibit C, Basis of Design Documents and Scope of Work which are contemplated to be constructed and installed at the site described on Exhibit A (the “**Host Site**”); and

WHEREAS, GIE is engaged in the business of investigation, design, financing and management of pre-construction and construction of heating, ventilation, humidity control, power and energy systems and components of occupied facilities in California meeting the standards of California’s Office of Statewide Health Planning and Development (“**OSHPD**”).

WHEREAS, County wishes to engage GIE to provide investigation, design, financing and management for certain pre-construction administration (and construction administration under a separate Engineering Services Agreement) activities for the Project through the subconsultants identified in Exhibit D, as more fully described in this Agreement, and subject to County approval, and GIE wishes to accept such engagement, subject to the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, agree as follows:

**AGREEMENT**

**1. Definitions.** For purposes of this Agreement, the following terms have the following meanings:

“**Act of God**” as defined in Public Contract Code section 7105, means earthquakes in excess of a magnitude of 3.5 on the Richter Scale and tidal waves.

“**Affiliate**” of a Person (as defined below) means any other Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such Person. For purposes of this definition only, the term “control” means the power to direct or cause the direction or the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise/direct or indirect ownership of more than fifty percent (50%) of the voting securities of a Person, and “controlled by” and “under common control with” have correlative meanings.

“**Agreement**” has the meaning set forth in the preamble.

“**AHU System**” means the Air Handling Units and related air distribution components and controls, whether temporary or permanent described in Exhibit A of this Agreement.

“**Anti-Corruption Laws**” means all Laws related to the fight against corruption, conflict of interest, bribery, money laundering, terrorism and boycotts, including all local and state laws, rules, policies and regulations, the United States Foreign Corrupt Practices Act of 1977, the United Kingdom Bribery Act 2010 and the United Nations Convention Against Corruption, all as may be amended from time to time.

“**Break Fee**” has the meaning set forth in Section 7.3.

“**Business Day**” means a day other than a Saturday, Sunday or other day declared as a County holiday by ordinance passed by the Board of Supervisors or required by Law to be closed for business.

“**Confidential Information**” means any Information (including Proprietary Information) that is treated as confidential by a disclosing Party, its Affiliates, or their Representatives, whether in oral, written, electronic or other form or media, whether or not such Information is marked, designated or otherwise identified as “confidential,” and includes any Information that due to the nature of its subject matter or circumstances surrounding its disclosure, would reasonably be understood to be non-public, confidential or proprietary, including, without limitation: (a) the existence, terms and conditions of this Agreement, (b) all non-public Information concerning the Project, either Party or the Project, (c) all Information concerning unpatented inventions, ideas, methods and discoveries, know-how, trade secrets, unpublished patent applications and invention disclosures, invention summaries and other confidential Intellectual Property and (d) all notes, analyses, compilations, reports, forecasts, studies, samples, data, statistics, summaries, interpretations and other materials that contain, are based on, or otherwise reflect or are derived from, any of the foregoing in whole or in part.

“**Consequential Damages**” means any consequential, incidental, indirect, exemplary, special, or punitive damages whether arising out of breach of contract, tort (including negligence), strict liability, product liability or otherwise (including the entry into, performance or breach of this Agreement), regardless of whether such loss or damage was foreseeable or the Party against whom such liability is claimed has been advised of the possibility of such loss or damage, and notwithstanding the failure of any agreed or other remedy of its essential purpose, which include 1) damages incurred by the County for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the Work or services of such persons; and 2) damages incurred by GIE for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit, except anticipated profit arising directly from the Work.

“**County**” has the meaning set forth in the preamble.

“**Effective Date**” has the meaning set forth in the preamble.

“**Energy Services Agreement**” or “**ESA**” has the meaning set forth in Section 4, and consistent with Government Code section 4217.10 – 4424, which agreement shall be signed by a California-licensed contractor, registered as a public works contractor with the California Department of Industrial Relations, who shall comply with the Prevailing Wage Law, provide a performance bond and a payment bond, each issued by a California admitted surety insurer in an amount equal to 100% of the Work Order Not-to-Exceed System cost approved under the executed Energy Services Agreement, subject to adjustment after OSHPD final approval of the AHU System plans, and provide insurance coverage with the scope, limits and duration specified by the County.

“**Final OSHPD Engineering Cost**” means those documented out-of-pocket design and engineering costs authorized by the County to be incurred, and actually incurred, by GIE in order to obtain OSHPD final approval of plans for the AHU System.

“**Financier**” shall be Redaptive Financial LLC, GIE, GIE Affiliate or a qualified third-party approved by the County to sign the ESA to fund the capital requirements for and construct one or more Systems designed by GIE and authorized by the County in the ESA.

“**Financing**” has the meaning set forth in Section 5.

“**Force Majeure**” means an event or circumstance: (1) beyond a Party’s reasonable control; (2) without the fault or negligence of such Party; and (3) which could not have been reasonably anticipated including, without limitation, acts of God, fire, flood, wars, acts of terrorism, sabotage, a mandate, directive, order, or restraint of any governmental, regulatory or judicial body or agency (excluding the current COVID-19 pandemic and all governmental restrictions and orders arising therefrom), insurrection, the elements, natural gas supply shortages, or any other events or circumstances not within the reasonable control of the Party affected, whether similar or dissimilar to any of the foregoing.

“**GIE**” has the meaning set forth in the preamble.

“**Host Facility**” has the meaning set forth in the preamble.

“**Host Site**” has the meaning set forth in the preamble.

“**Information**” means any and all ideas, concepts, data, know-how, discoveries, improvements, methods, techniques, technologies, systems, specifications, analyses, products, practices, processes, procedures, protocols, research, tests, trials, assays, controls, prototypes, formulas, descriptions, formulations, submissions, communications, skills, experience, knowledge, plans, objectives, algorithms, reports, results, conclusions and other information and materials, irrespective of whether or not copyrightable or patentable and in any form or medium (tangible, intangible, oral, written, electronic, observational or other) in which such information may be communicated or subsist. Without limiting the foregoing sentence, Information includes any technological, scientific, business, legal, patent, organizational, commercial, operational or financial materials or information.

“**Intellectual Property**” means all registered or unregistered intellectual property, including without limitation, patents, trademarks, copyrights, inventions, works of authorship or

expression, computer programs, data collections and databases, trade secrets, and other Information.

“**Interim County Determination**” has the meaning set forth in Section 6.2.

“**Law**” and “**Applicable Law**” means any statute, law, ordinance, regulation, rule, code, order, constitution, treaty, common law, judgment, decree, other requirement or rule of law of any federal, state, local or foreign government or political subdivision thereof, or any arbitrator, court or tribunal of competent jurisdiction including, but not limited to, Title 24 of the California Code of Regulations, OSHPD plan final approval requirements, the stay at home directive issued by the Governor of the State of California (Executive Order N-35-20) issued March 19, 2020, as clarified by the List of Essential Critical Infrastructure Workers issued on March 22, 2020; and similar orders issued by governmental authorities with jurisdiction of the Work arising from the COVID-19 virus and pandemic as amended through the Effective Date if this Agreement.

“**Losses**” means all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs or expenses of whatever kind, including reasonable attorneys’, accountants’, consultants’, engineers’, financiers’ and inspectors’ fees and the cost of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers.

“**Party**” and “**Parties**” have the meaning set forth in the preamble.

“**Person**” means an individual, corporation, partnership, joint venture, limited liability entity, governmental authority, unincorporated organization, trust, association or other entity.

“**Project**” has the meaning set forth in the preamble.

“**Proprietary Information**” has meaning set forth in Section 8.1.

“**Representative**” means a Party’s and its Affiliates’ employees, officers, directors, consultants and legal, technical and business advisors.

“**System**” means: Project systems identified in Exhibit C to be designed by GIE including: 1) the AHU System; 2) interior and exterior lighting retrofits subject to OSHPD approval; 3) high efficiency electrical transformers, power shavers and variable frequency drives (VFD) control systems; 4) Legacy Siemens Building Management Automation System upgrade or replacement and retro-commissioning; and/or 5) electricity generation technologies including photovoltaic solar; 6) expansion of cogeneration plant generation capacity; and 7) other balance of plant components financed, installed and tested following the County-approved ESA and Work Order.

“**Term**” has the meaning set forth in Section 13.1.

“**Uncontrollable Circumstances**” means any unforeseeable event or circumstance, which prevents or delays the performance of any material obligation arising under this Agreement, including a Force Majeure event, strikes, lock-outs, or other labor disturbances, the exercise of the power of eminent domain, police power, condemnation or other taking by or on behalf of any public, quasi-public or private entity, and/or a change in Applicable Law provided that the Party seeking to have its performance obligations excused thereby has taken reasonable precautions and measures in order to prevent or avoid such event or mitigate the effect of such event on such Party’s ability to perform its obligations under this Agreement and which by the exercise of due diligence

such Party could not reasonably have been expected to avoid and which by the exercise of due diligence it has been unable to overcome. The unforeseeable event or circumstance in the previous sentence shall not be deemed an Uncontrollable Circumstance to the extent (a) such event is within the reasonable control, directly or indirectly, of the Party seeking to have its performance obligations excused thereby, and (b) such event is the direct or indirect result of the fault or negligent action or inaction of the Party seeking to have its performance obligations excused thereby or of any third party over whom the Party has the right of control.

“**Work**” has the meaning set forth in Section 2.1.

“**Work Order**” means an Exhibit under the ESA providing authorization to Financier by County to finance, install and construct an individual System in conformance with the approved engineering plans and budget provided to County by GIE as part of the Work.

“**Work Product**” has meaning set forth in Section 8.2.

## 2. Performance of the Work.

2.1 Scope of Work. GIE shall provide the engineering drawings, Financing, design and other related services in connection with the Project as more fully described in Exhibit C (the “**Work**”). This Agreement represents the entire and integrated agreement between the County and GIE with respect to the Work and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both County and GIE. In the event of a conflict between the terms and conditions of this Agreement and an attached exhibit, the terms and conditions of the Agreement shall take precedence. This Agreement is comprised of the following documents listed below:

- (a) Agreement;
- (b) Exhibit A – Project Description
- (c) Exhibit B – Schedule of Work and Break Fee
- (d) Exhibit C – Basis of Design Documents and Scope of Work
- (e) Exhibit D – GIE Key Personnel and Team Members and Division of Responsibilities

2.2 Standard of Performance. GIE shall oversee, manage, coordinate and perform the Work, as applicable, with the requisite and appropriate expertise, supervision, skill, and competence in accordance with Law, prudent industry practice and the highest standard of professional care applicable to firms having experience with the planning and construction of combined heating, ventilation, humidity control and power projects similar to the Project in scope, scale, schedule, budget, quality, and complexity, utilizing reasonable skill and judgment, and in a safe, prudent, professional, expeditious, and workmanlike manner.

2.3 Responsibility for Personnel. GIE shall be responsible to County for the acts and omissions of its employees, subcontractors, and their agents, employees, and any other persons performing any portion of the Work. GIE shall furnish all necessary personnel for performing the Work.



2.4 Compliance with Laws. GIE shall comply with all Laws applicable to the performance of the Work, including, but not limited to, all Anti-Corruption Laws.

2.5 Safety. GIE shall use commercially reasonable efforts to ensure the safety of persons and property in the performance of its Work, and shall comply with any health, safety, environmental or security plans, and Laws applicable to the Host Site or the Project.

2.6 Entry onto Host Site. GIE agrees not to unreasonably interfere with County's use of the Host Site or the operation of the Host Facility in the performance of the Work.

2.7 Subcontracts. GIE has subcontracted with the design professionals and subconsultants for the services and Work identified in Exhibit D (GIE Team Members identified by name, address, discipline and scope of Work and resumes of key personnel), which subcontractors shall be approved by the County concurrent with approval of this Agreement. GIE shall not have the right to subcontract any other portions of the Work without the prior written approval of County; provided, such approval shall not be unreasonably withheld, conditioned or delayed, and may only be delayed if the County demonstrates the subcontractor materially lacks competence, qualifications or insurance to perform its scope of the Work.

2.8 Labor Code and Prevailing Wages

(a) Inasmuch as the Project and any Break Fee and will be paid for in whole or in part with public funds, the Project is a public work as defined in California Labor Code sections 1770-1861 and California Code of Regulations, Title 8, sections 16000 – 16414 (the "Prevailing Wage Law"). Therefore, some or all of the services and Work under this Agreement are considered maintenance and may be subject to the Prevailing Wage Law.

(b) Reference is made to Chapter 1, Part 7, Division 2 of the California Labor Code (commencing with section 1720). By this reference said Chapter 1 is incorporated herein with like effect as if it were here set forth in full. The Parties recognize that said Chapter 1 deals, among other things with discrimination, penalties and forfeitures, their disposition and enforcement, wages, working hours, and securing worker's compensation insurance and directly affect the method of prosecution of the Work by GIE and subject GIE under certain conditions to penalties and forfeitures. Execution of the Agreement by the Parties constitutes their agreement to abide by said Chapter 1, their stipulation as to all matters which they are required to stipulate as to by the provisions of said Chapter 1, constitutes GIE's certification that it is aware of the provisions of said Chapter 1 and will comply with them and further constitutes GIE's certification as follows:

I am 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 that Code, and I will comply with such provisions before commencing the performance of the work of this contract.

(c) Pursuant to section 1773 of the Labor Code, the general prevailing wage rates, including the per diem wages applicable to the Work, and for holiday and overtime work, including employer payments for health and welfare, pension, vacation, and similar purposes, in the county in which the Work is to be done have been determined

by the Director of the California Department of Industrial Relations. These wages are available from the California Department of Industrial Relations' Internet website at <http://www.dir.ca.gov>, and are available at the main office of Agency.

(d) GIE and its subconsultants, of every tier, shall ensure that all workers who perform Work under this Agreement that are subject to the Prevailing Wage Laws are paid not less than the prevailing rate of per diem wages as determined by the Department of Industrial Relations ("DIR"), which can be obtained online at: <https://www.dir.ca.gov/OPRL/DPreWageDetermination.htm>. This includes Work and services performed during the design, site assessment, feasibility study, and other preconstruction phases of construction, including, but not limited to, inspection and land surveying work, regardless of whether any further construction work is conducted. GIE is responsible for applying the appropriate wage classification for the public work performed, which may require application of the wage determination of the most closely related craft or classification shown in such determinations. GIE shall post a copy of the general prevailing rate of per diem wages at the Project job site.

(e) Pursuant to Labor Code sections 1725.5 and 1771.1, GIE and its subconsultants, of every tier must be registered with the DIR prior to bidding on or executing a contract to perform public works. By bidding on or entering into a contract with the County, GIE represents that it is aware of the registration requirement and is currently registered with the DIR. GIE shall maintain a current registration for the duration of this Agreement. GIE shall further include the requirements of Labor Code sections 1725.5 and 1771.1 in all agreements with its subconsultants who perform public works and ensure that all such subconsultants are timely registered for the duration of the Agreement.

(f) GIE shall prepare certified payroll records as required by section 1776 of the Labor Code and upon County's request. GIE and its subconsultants or every tier shall furnish the payroll records specified in Labor Code section 1776 directly to the Labor Commissioner in the manner required under section 1771.4 of the California Labor Code.

(g) GIE and its subconsultants of every tier shall comply with sections 1777.5 and 1777.6 with respect to the employment of apprentices, if applicable.

## 2.9 Employment Laws.

(a) GIE is, for purposes relating to this Agreement, an independent contractor and shall not be deemed an employee of the County. It is expressly understood and agreed that GIE (including its employees, agents, and subcontractors) shall in no event be entitled to any benefits to which County employees are entitled, including but not limited to overtime, any retirement benefits, worker's compensation benefits, and injury leave or other leave benefits. There shall be no employer-employee relationship between the parties; and GIE shall hold County harmless from any and all claims that may be made against County based upon any contention by a third party that an employer-employee relationship exists by reason of this Agreement. It is further understood and agreed by the parties that GIE in the performance of this Agreement is subject to the control or direction of County merely as to the results to be accomplished and not as to the means and methods for accomplishing the results.

(b) GIE warrants that it shall make commercially reasonable efforts to fully comply with all federal and state statutes and regulations regarding the employment of aliens and others and to ensure that employees performing Work under this Agreement meet the citizenship or alien status requirement set forth in federal statutes and regulations. GIE shall obtain, from all employees performing Work hereunder, all verification and other documentation of employment eligibility status required by federal or state statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986, 8 U.S.C. §1324 et seq., as they currently exist and as they may be hereafter amended. GIE shall retain all such documentation for all covered employees, for the period prescribed by the law.

2.10 Licensing and Permits. GIE shall comply with all State or other licensing requirements, including but not limited to the provisions of Chapter 9 of Division 3 of the Business and Professions Code. All licensing requirements shall be met at the time proposals are submitted to the County. GIE warrants that it has all necessary permits, approvals, certificates, waivers and exemptions necessary for performance of this Agreement as required by the laws and regulations of the United States, the State of California, the County of Riverside and all other governmental agencies with jurisdiction, and shall maintain these throughout the term of this Agreement. County shall be responsible for applying, procuring, and renewing all permits necessary for: (i) County to do business in the jurisdictions in which the Generating Facility and Site are located and (ii) the ownership and operation of the Generating Facility and the Site.

2.11 Non-Discrimination. GIE shall not be discriminate in the provision of services in connection with the Work, allocation of benefits, accommodation in facilities, or employment of personnel on the basis of ethnic group identification, race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status or sex in the performance of this Agreement; and, to the extent they shall be found to be applicable hereto, shall comply with the provisions of the California Fair Employment and Housing Act (Gov. Code 12900 et seq), the Federal Civil Rights Act of 1964 (P.L. 88-352), the Americans with Disabilities Act of 1990 (42 U.S.C. 1210 et seq.) and all other applicable laws or regulations.

2.12 Records and Documents. GIE shall make available, upon written request by any duly authorized Federal, State, or County agency, a copy of this Agreement and such books, documents and records as are necessary to certify the nature and extent of GIE's costs related to this Agreement. All such books, documents and records shall be maintained by GIE for at least five years following completion of the Work or earlier termination of this Agreement and be available for audit by the COUNTY. GIE shall provide to the County reports and information related to this Agreement as requested by County.

2.13 Alteration or Changes to the Agreement.

(a) The Board of Supervisors and the County Purchasing Agent and/or his designee are the only authorized County representatives who may at any time, by written order, alter this Agreement. If any such alteration causes an increase or decrease in the cost of, or the time required for the performance under this Agreement, an equitable adjustment shall be made in the Break Fee, Final OSHPD Engineering Cost, or delivery schedule/Term, or both, and the Agreement shall be modified by written amendment accordingly.

(b) Any claim by GIE for additional payment related to this Agreement shall be made in writing by GIE within twenty (20) Business Days of when GIE

has or should have notice of any actual or claimed change in the Work, which results in additional and unanticipated cost to GIE. Pending final determination of the total cost of a claimed change in the Work, GIE may request adjustment of the Break Fee and Final OSHPD Engineering Cost for Work completed. The County will make an interim determination and make an adjustment to the Break Fee and Final OSHPD Engineering Cost for the amount that the County in good faith determines to be reasonably justified. The County's interim determination of cost shall adjust the Break Fee and Final OSHPD Engineering Cost by written amendment to this Agreement, subject to the right of either Party to disagree and assert a claim in accordance with Section 16. Notwithstanding any dispute to be resolved pursuant to Section 16, GIE shall continue to proceed with performance of the Agreement including the scope of the disputed change order, and GIE shall be entitled to compensation for such performance (or an increase to the Break Fee and Final OSHPD Engineering Cost, as applicable) to the extent that it is determined compensation (or an increase to the Break Fee and Final OSHPD Engineering Cost) is owed to GIE pursuant to the dispute resolution procedures in Section 16 hereof.

2.14 Conduct of GIE.

(a) GIE covenants that it presently has no interest, including, but not limited to, other projects or contracts, and shall not acquire any such interest, direct or indirect, which would conflict in any manner or degree with GIE's performance under this Agreement. GIE further covenants that no person or subcontractor having any such interest shall be employed or retained by GIE under this Agreement. GIE agrees to inform the County of all the GIE's interests, if any, which are or may be perceived as incompatible with the County's interests.

(b) GIE shall not, under circumstances which could be interpreted as an attempt to influence the recipient in the conduct of his/her duties, accept any gratuity or special favor from individuals or firms with whom GIE is doing business or proposing to do business, in accomplishing the Work under this Agreement.

(c) GIE or its employees shall not offer gifts, gratuity, favors, and entertainment directly or indirectly to County employees.

2.15 Inspection of Service; Quality Control/Assurance. All performance (which includes services, workmanship, materials, supplies and equipment furnished or utilized in the performance of the Work of this Agreement) shall be subject to inspection and test by the County or other regulatory agencies at all times. GIE shall provide adequate cooperation to any inspector or other County representative to permit him/her to determine GIE's conformity with the terms of this Agreement. GIE shall establish adequate procedures for self-monitoring and quality control and assurance to ensure proper performance under this Agreement; and shall permit a County representative or other regulatory official to monitor, assess, or evaluate GIE's performance under this Agreement at any time, upon reasonable notice to GIE.

3. Certain Obligations of County.

3.1 Without limiting any other obligations of County hereunder, County shall:

(a) comply with all Laws applicable to its performance of its obligations under this Agreement;

(b) permit GIE and its Representatives to enter upon the Host Site at reasonable times mutually agreed between GIE and County, to perform inspections and examinations of the Host Site and Host Facility in connection with the Work;

(c) provide GIE with all reasonably available information related to the Host Facility requested by GIE in connection with the performance of the Work, including County's engineering and technical information relating to the Host Facility or Host Site;

(d) make its engineering and operations staff and other Representatives available to GIE as may be reasonably requested by GIE in connection with the performance of the Work; and

(e) comply with all other requirements set forth in exhibits to this Agreement.

3.2 Contract Liaison. The County Purchasing Agent, or designee, shall administer this Agreement on behalf of the County. The Purchasing Department is to serve as the liaison with GIE in connection with this Agreement.

3.3 Reporting Requirements. In order to comply with child support enforcement requirements of the State of California, the County may be required to submit a Report of Independent Contractor(s) form DE 542 to the County. GIE agrees to furnish the required data and certifications to the County within 10 days of notification of award of Agreement when required by the EDD. This data will be transmitted to governmental agencies charged with the establishment and enforcement of child support orders. Failure of GIE to timely submit the data and/or certificates required may result in the contract being awarded to another contractor. In the event a contract has been issued, failure of GIE to comply with all federal and state reporting requirements for child support enforcement or to comply with all lawfully served Wage and Earnings Assignments Orders and Notices of Assignment shall constitute a material breach of Agreement. If GIE has any questions concerning this reporting requirement, please call (916) 657-0529. GIE will also contact its local Employment Tax Customer Service Office listed in the telephone directory in the State Government section under "Employment Design Department" or access their Internet site at [www.edd.ca.gov](http://www.edd.ca.gov).

3.4 Commissioning Agent. County shall retain, at its own expense, an independent commissioning agent to review and comment on GIE's design documents and as a quality control check on the installation and operation of the installed Systems.

**4. Negotiation of Energy Services Agreement.** After the Effective date and in connection with GIE's performance of the Work, County, and, in any event, at least 30 days prior to GIE's Notice of Completion, County, GIE and the Financier shall use good faith efforts to negotiate the terms and conditions of the ESA (the "**Energy Services Agreement**" or "**ESA**").

**5. Financing.**

5.1 Financing. During the Term, GIE, or the Financier who enters into the ESA shall use commercially reasonable efforts to arrange for financing (whether through debt, equity or otherwise) for the construction of the AHU System and other Systems selected by County as defined in the ESA and exhibits, thereto, on terms and conditions satisfactory to GIE, or the Financier - (the "**Financing**"). The Financing terms and conditions shall be submitted to the

County for review at least 30 days prior to GIE's Notice of Completion and shall impose no obligations upon the County without the County's written approval. The Financier's signature on the ESA is a binding commitment to fund construction of all of the Systems authorized by the County specified in the ESA, from commencement through completion and County's final acceptance of each System.

5.2 Financing Not a Condition to Performance of the Work. Financing shall not be a condition precedent to GIE's performance of this Agreement or to County's payment of the Break Fee and Final OSHPD Engineering Cost.

## 6. Completion of the Work; Interim County Determination.

6.1 GIE Notice of Completion. When GIE has properly completed the Work in accordance with Applicable Law and the requirements for Tracks A, B and C, respectively, as described in Exhibit B and confirmed by the County's peer review of GIE's Work, GIE shall deliver a written notice of such determination, one for all of the Systems (the "**GIE Notice of Completion**") to County. Should GIE fail to deliver a GIE Notice of Completion within 150 calendar days after the Effective Date, subject to an extension of time as provided herein, the County may elect to terminate this Agreement for cause, in which case, no Break Fee shall be due GIE in accordance with Section 13.5 herein.

6.2 Interim County Determination. No later than twenty (20) Business Days after County's receipt of the GIE Notice of Completion, subject to an extension of time as provided herein, the County shall either (a) place the ESA for approval on the agenda at the next regularly scheduled meeting of the County Board of Supervisors (and upon approval deliver to GIE the ESA duly executed by County, or (b) notify GIE that County does not intend to execute the ESA (in either case, the "**Interim County Determination**"). If the County determines not to execute the ESA, County will include in its notification whether it will require GIE to submit the AHU System plans to OSHPD and continue to provide services related to that regulatory submission until a final determination is made by that agency about the AHU System plans. If County fails to timely deliver the duly executed ESA or notifies GIE that it will not execute the ESA, then County shall be responsible for payment to GIE of the Break Fee in accordance with Section 7.3.

6.3 County Work Orders. Following execution of the ESA, County will issue one or more Work Orders as defined under the ESA. The Work Order for the AHU System will not be issued until after OSHPD final approval of the AHU System plans.

6.4 Delays and Extensions of Time for Performance Due to Force Majeure and other Uncontrollable Circumstances. Any Party asserting its inability to perform any obligation hereunder due to Force Majeure events or other Uncontrollable Circumstances shall promptly notify the other Party of the existence of any such Uncontrollable Circumstances and shall use its commercially reasonable efforts to re-commence its performance of such obligation as soon as commercially practicable. During the time period in which an Uncontrollable Circumstance occurs, all obligations of the Parties shall be suspended to the extent required and the time for performance shall be extended by written amendment to this Agreement, but the Parties will not be entitled to damages or additional payments due to Uncontrollable Circumstances.

6.5 Delays and Extensions of Time for Performance Caused by County. For delays for which the County is responsible, that are unreasonable under the circumstances involved, and not within the contemplation of the Parties, GIE's time for performance, including delivery of the GIE Notice of Completion shall be extended and GIE will be compensated for actual costs

reasonably incurred pursuant to the change order process set forth in Section 2.13. County will not be liable for damages that GIE could have avoided by reasonable means.

**7. Costs to Complete the Work.**

7.1 Allocation of Costs for Work. Except as otherwise set forth in Section 2.13, Section 6.4, Section 7.3, and Section 13.3, GIE shall be responsible for all internal and external costs incurred by GIE in connection with its performance of the Work.

7.2 GIE Responsible for Costs. In the event that County timely executes and delivers the ESA and a Work Order for the AHU System pursuant to Section 6, then County shall not be responsible for the Break Fee and all such internal and external costs shall be deemed to be for GIE's account in connection with this PSA.

7.3 Break Fee. If the County determines not to execute the ESA, County shall pay the Break Fee and Final OSHPD Engineering Costs:

(a) in the event after receipt of the GIE Notice of Completion and GIE is otherwise not in breach, the County as described in paragraph 7.2 above does not elect to execute the ESA, County shall pay GIE the Break Fee in the amount of \$719,000 within 20 Business Days of GIE's written demand; or

(b) in the event that County does not execute the ESA and thereafter requires GIE to submit the AHU System plans submitted for OSHPD final approval, County shall also, in addition to the Break Fee pay to GIE documented Final OSHPD Engineering Costs capped at \$100,000 within 20 Business Days of GIE's demand after receipt of OSHPD final approval of the AHU System plans.

7.4 Break Fee and Final OSHPD Engineering Costs not a Penalty. The Parties agree that the Break Fee and Final OSHPD Engineering Costs as provided herein are reasonable compensation to GIE for all Work under this Agreement. It is understood and agreed by the Parties that such payments represent a reasonable estimate of fair compensation for the completed Work should one of the events described in Section 7.3 above occur. Except for any increase in the Break Fee or Final OSHPD Engineering Costs requested by GIE pursuant to Section 2.13, County waives all right and ability to challenge or dispute the amount of the Break Fee and Final OSHPD Engineering Costs, which the Parties agrees is fully enforceable.

**8. Intellectual Property.**

8.1 Proprietary Information. As between the Parties, each Party shall solely own all right, title and interest in and to any Intellectual Property invented, created, or otherwise originated solely by it or its Representatives prior to the Effective Date (collectively, as applicable, "**Proprietary Information**"). Under no circumstances shall a Party, as a result of this Agreement, obtain any ownership interest or other right, title or interest in or to any Proprietary Information of the other Party, whether by implication, estoppel or otherwise, including any items controlled or developed by the other Party, or delivered by the other Party, at any time pursuant to this Agreement. Both Parties agree that Proprietary Information shall be considered privileged and confidential information. At such time as the PSA and subsequent ESA is recommended for approval and appears on the County Board of Supervisors agenda, all proposals and the proposed agreements shall become a matter of public record and shall be regarded as public, with the

exception of those elements of each proposal and agreement which are identified by GIE, or Financier, as business or trade secrets and plainly marked as "Trade Secret," "Confidential," or "Proprietary." Each element of a proposal that GIE desires not to be considered a public record must be clearly marked as set forth above, and any blanket statement (e.g., regarding entire pages, documents or other non-specific designations) shall not be sufficient and shall not bind the County in any way whatsoever.

(a) The Parties shall not use for personal gain or make other improper use of privileged or confidential information which is acquired in connection with this Agreement. The term "privileged or confidential information" includes but is not limited to: unpublished or sensitive technological or scientific information; medical, personnel, or security records; anticipated material requirements or pricing/purchasing actions; information or data which is not subject to public disclosure; operational procedures; and knowledge of selection of subcontractors or suppliers in advance of official announcement.

(b) Subject to County's obligations under the California Public Records Act, (Government Code section 6250 et seq.), the Parties shall protect from unauthorized disclosure names and other identifying information concerning patients and persons receiving Work or services pursuant to this Agreement, except for general statistical information not identifying any person. The Parties shall not use such information for any purpose other than carrying out their respective obligations under this Agreement or as required by Applicable Law. Each Party shall promptly transmit to the other all third party requests for disclosure of such information. A Party shall not disclose, except as otherwise specifically permitted by this Agreement or authorized in advance in writing by the other Party, any such information to anyone other than the other Party, except as required by Applicable Law. For purposes of this paragraph, identity shall include, but not be limited to, name, identifying number, symbol, or other identifying particulars assigned to the individual, such as finger or voice print or a photograph.

8.2 Work Product. Except as otherwise set forth in Section 7.3, Section 8.3 and Section 13.3, GIE shall own all right, title and interest in and to (a) the results of the Work, including any reports, data, plans, projections or analyses derived therefrom, (b) the results of any other third party reports or evaluations conducted during the Term as part of the Work and (c) any other Intellectual Property developed by GIE in connection with the Work or arising in connection with the Financing (collectively (a), (b) and (c), the "**Work Product**").

8.3 Ownership of Copyright/Use of Contract Materials and Products/Transfer of Work Product. Notwithstanding anything to the contrary in this Agreement, upon payment by County to GIE of the Break Fee and Final OSHPD Engineering Cost, if applicable, or upon a County Final Determination that includes the AHU Systems, GIE hereby agrees to transfer all Work Product to County in any form, including electronic, including all copyright, title and interest to the Work Product to County promptly upon GIE's receipt of the payment of the Break Fee and Final OSHPD Engineering Cost for such Work Product or upon County's execution of a Work Order for the AHU System. In the event of termination, GIE shall not have any further obligations or liability for its Work Product except as otherwise provided in Business and Professions Code sections 6735(b) and 6735.4(b). After termination of this Agreement as provided in Article 13, or upon County's decision to not execute the ESA, but to nevertheless direct GIE to obtain OSHPD final approval of the AHU System plans and payment by County to GIE of the Break Fee and Final OSHPD Engineering Cost, or upon County's execution of a Work Order for the AHU System, the Work Product may be used by the County for any purpose in connection with the construction, operation, maintenance, repair, explanation of renovation of the Project that the County deems to



be appropriate, including, but not limit to, duplication and/or distribution within the County or to third parties. GIE agrees not to release or circulate in whole or part Work Project without prior written authorization of the County. Nothing in this Agreement shall prohibit GIE from unlimited use of GIE's standard details, drawings and specifications that are part of the Work Product. The County, in turn, hereby grants to GIE a non-exclusive license to reproduce the GIE for purposes relating directly to GIE's performance of this Project and for GIE's archival records, and for GIE's marketing materials, as approved by County. In the event the County modifies or alters the Work Product without the authorization or approval of the subcontractor designated by GIE who signed the engineering plans and other Work Project, the County releases GIE from all claims and causes of action arising from such modifications or alteration, except as otherwise provided in Business and Professions Code sections 6735(b) and 6735.4(b). If County uses or reuses the Work Product after paying the Break Fee, County shall remove the name and seal of GIE and GIE's design subconsultants from the Work Product.

8.4 **Exceptions.** If the County becomes legally compelled to disclose any Confidential Information, the County shall (a) provide prompt written notice to GIE so that the GIE may seek a protective order or other appropriate remedy and (b) County shall disclose only the portion of Confidential Information that it is legally required to furnish. If disclosure is required or permitted under the California Public Records Act or otherwise by law, the County shall not in any way be liable or responsible for the disclosure of any such records or part thereof.

9. **GIE Representations and Warranties.** GIE represents and warrants that: (a) it is duly organized, validly existing and in good standing as a corporation or other entity as represented herein under the Laws and regulations of its jurisdiction of incorporation, organization or chartering; (b) it has the full right, power and authority to enter into this Agreement and to perform its obligations hereunder; (c) the execution of this Agreement by GIE has been duly authorized by all necessary action of the Party; (d) when executed and delivered by such Party, this Agreement shall constitute the legal, valid and binding obligation of such Party, enforceable against such Party in accordance with its terms; and (e) the execution, delivery, and performance of this Agreement by GIE does not conflict with or violate the organizational documents of such Party, any Laws applicable to such Party, or any agreement or contract to which such Party or its assets is bound.

10. **County Representations and Warranties.** County represents and warrants that (a) all documentation, information and know-how provided to GIE for the basis of the Work, shall be accurate, complete and current to the best of the County's knowledge, and (b) when executed and delivered by such Party, this Agreement shall constitute the legal, valid and binding obligation of such Party, enforceable against such Party in accordance with its terms.

11. **Party Representatives.**

11.1 **GIE Representative.** GIE's representative for purposes of this Agreement, who has complete authority to act on behalf of GIE on all matters pertaining to this Agreement or the Work shall be Dan McDevitt, Chief Operating Officer, PSA Administration, 312-718-2568, dmcdevitt@gienergyus.com. GIE may change its representative upon prior written notice to County.

11.2 County does not have one person that has complete authority.

**12. Indemnity and Limitation of Liability.**

12.1 GIE shall indemnify and hold harmless the County of Riverside, its Agencies, Districts, Special Districts and Departments, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents and representatives (individually and collectively hereinafter referred to as "**Indemnitees**") from any liability, action, claim or damage whatsoever, based or asserted by an unaffiliated third party upon any Work or services of GIE, its officers, employees, subcontractors, agents or representatives arising out of or in any way relating to this Agreement, including but not limited to property damage, bodily injury, or death or any other element of any kind or nature, to the extent arising out of, pertaining to, or relating to, the negligence, recklessness, or willful misconduct of GIE its subconsultants, their respective employees and any other entity or person for which GIE is liable, in the performance of Work and services under the Agreement. This indemnity obligation shall apply to any indemnity claim to the extent arising out of the errors, omissions, negligence, recklessness or willful misconduct of GIE or its subconsultants, regardless of whether or not the indemnity claim is contributed to, in part, by the negligence or fault of an Indemnitee. Notwithstanding the foregoing, this indemnity obligation shall not apply to the extent caused by an Indemnitee's sole or active negligence, recklessness, or willful misconduct.

12.2 With respect to any action or claim subject to indemnification herein by GIE, GIE shall, at its sole cost, have the right to use counsel of their own choice and shall have the right to adjust, settle, or compromise any such action or claim, with the prior written consent of County; provided, however, that any such adjustment, settlement or compromise in no manner whatsoever limits or circumscribes GIE indemnification to Indemnitees as set forth herein.

12.3 GIE'S obligation hereunder shall be satisfied when GIE has provided to County the appropriate form of dismissal relieving County from any liability for the action or claim involved.

12.4 In the event there is a conflict between this clause and California Civil Code section 2782 or 2782.8, this clause shall be interpreted to comply with Civil Code 2782 and 2782.8. Such interpretation shall not relieve the GIE from indemnifying the Indemnitees to the fullest extent allowed by law.

12.5 GIE's indemnification obligations shall also apply to any action or claim regarding actual or alleged intellectual property infringement related to any material or product provided to County pursuant to this Agreement and any violation of the Prevailing Wage Law. In the event of any such action or claim, GIE shall provide immediate notice to County of the action or claim. GIE may defend or settle the action or claim as GIE deems appropriate; however, GIE shall be required to obtain for County the right to continue to use the material or product (or a similar non-infringing material or product with the same function) on terms identical to those stated in this Agreement.

12.6 GIE'S indemnification obligations do not extend or apply to any action or claims arising from the functioning of the Project as caused by the performance of third party vendors, when not involving or contributed to by the action(s) of GIE. Third parties performing services regarding the facility will also be required to provide the indemnification as noted in Sections 12.1 through 12.5 herein.

12.7 Limitation of Liability. Provided GIE maintains all of the insurance required under this Agreement, GIE's total liability, for claims, losses and damages arising from

performance of the Work under this Agreement including Consequential Damages, to County under this Agreement shall not exceed the dollar limits of GIE's insurance, provided, however, this limitation shall not apply to GIE's liability, if any, for contribution or indemnity with respect to liability for unaffiliated third party claims. This limitation of liability shall not be raised as a defense to any claim covered by insurance. If GIE fails to maintain the insurance coverages with the limits and period of time required by this Agreement, there shall be no limitation of GIE's liability.

**13. Term and Termination.**

13.1 Term. This Agreement shall be deemed to have commenced on the Effective Date and shall remain in full force until expiration of the applicable statutes of repose and limitation. The duration for performance of the Work through the GIE Notice of Completion 150 calendar days of the Effective Date, subject to an extension of time as provided herein.

13.2 Termination By Either Party.

(a) Termination for Cause. Either Party may terminate this Agreement if the other Party materially breaches this Agreement and, if such breach is curable, fails to cure such breach within ten (10) Business Days of being notified in writing to do so; provided, however, such period shall be extended an additional ten (10) days if the breaching Party has begun good faith efforts to remedy such breach within the initial ten (10) Business Day period and provides a written explanation to the non-breaching Party of the reasons for the breach, what it is doing to remedy the breach and why it believes it can remedy the breach within the additional ten (10) Business Day period.

(b) Termination for Insolvency. Either Party may terminate this Agreement if the other Party: (i) becomes insolvent or admits its inability to pay its debts generally as they become due; (ii) becomes subject, voluntarily or involuntarily, to any proceeding under any domestic or foreign bankruptcy or insolvency Law, which is not fully stayed within ninety (90) Business Days or is not dismissed or vacated within one hundred and twenty (120) Business Days after filing; (iii) is dissolved or liquidated or takes any corporate action for such purpose; (iv) makes a general assignment for the benefit of creditors; or (v) has a receiver, trustee, custodian or similar agent appointed by order of any court of competent jurisdiction to take charge of or sell any material portion of its property or business.

13.3 County's Additional Rights to Terminate. If at any time during the Term, the County may in its sole discretion suspend or terminate this Agreement:

(a) if the Host Facility is damaged by an Act of God or other major property damage casualty loss in excess of 5% of the appraised value of the Host Facility or otherwise prevents the Host Facility from being used as a community hospital; or

(b) if in any fiscal year during the Term of this Agreement, the County's Board of Supervisors does not appropriate funds for County's payment obligations under this Agreement.

If the County terminates the Agreement pursuant to this Section 13.3, prior to the Interim County Determination, GIE shall be entitled to recover: 1) its reasonable documented out-of-pocket costs

for Work completed; or 2) a percentage of the Break Fee specified in Section 7.3 above based on the percentage of Work completed at the time of termination, whichever is less.

13.4 The Party eligible to terminate this Agreement shall provide written notice of such termination to the other Party and such termination shall be effective as of the effective date of such notice.

13.5 Effect of Termination. Expiration or termination of this Agreement shall not relieve the Parties of any obligations accruing prior to the effective date of such expiration or termination including for County, does not relieve any Break Fee and Final OSHPD Engineering Cost payment obligation, if applicable. Any expiration or termination of this Agreement shall not preclude either Party from pursuing all rights and remedies it may have hereunder at Law or in equity with respect to a breach of this Agreement. Notwithstanding anything to the contrary in this Agreement, if County terminates this Agreement in accordance with Section 13.2(a) or Section 13.2(b), then (a) County shall not owe the Break Fee to GIE, and (b) GIE shall transfer to County all right, title and interest to any Work Product in existence as of the date of such termination (in whatever form such Work Product may be in as of such date).

After receipt of the notice of termination, GIE shall:

(a) Stop all Work under this Agreement on the date specified in the notice of termination; and

(b) In accordance with Section 7.3, Section 8.3, or Section 13.3, as applicable, and subject to payment of the Break Fee and Final OSHPD Engineering Cost, if applicable, transfer to County and deliver in the manner as directed by County any materials, reports or other Work Products.

13.6 In the event of County termination under Section 13.3, subject to payment of the Break Fee, neither Party shall have any further obligations or liability to continue performance hereunder. Such termination, however, shall not relieve the Parties of liability for any obligation incurred prior to the date of the termination.

13.7 Survival. The rights and obligations of the Parties which by their express terms or nature and context are intended to survive termination or expiration of this Agreement, including without limitation those set forth in Sections 12, 13, 15 and 16 shall survive any such termination or expiration and shall be binding upon the Parties until any action hereunder is barred by the applicable statute of limitations or statute of repose.

**14. Insurance**. During the term, each Party shall, at its own cost and expense, obtain and maintain in full force and effect insurance policies providing the coverages of the types and in the amounts set forth below.

14.1 General. Without limiting or diminishing the GIE'S obligation to indemnify or hold the COUNTY harmless, GIE shall procure and maintain or cause to be maintained, at its sole cost and expense, the following insurance coverage's during the term of this Agreement. As respects to the insurance section only, the COUNTY herein refers to the County of Riverside, its Agencies, Districts, Special Districts, and Departments, their respective directors, officers, Board of Supervisors, employees, elected or appointed officials, agents, or representatives as Additional Insureds

14.2 Workers' Compensation. If the GIE has employees as defined by the State of California, the GIE shall maintain statutory Workers' Compensation Insurance (Coverage A) as prescribed by the laws of the State of California. Policy shall include Employers' Liability (Coverage B) including Occupational Disease with limits not less than \$1,000,000 per person per accident. The policy shall be endorsed to waive subrogation in favor of The County of Riverside.

14.3 Commercial General Liability. Commercial General Liability insurance coverage, including but not limited to, premises liability, unmodified contractual liability, products and completed operations liability, personal and advertising injury, and cross liability coverage, covering claims which may arise from or out of GIE'S performance of its obligations hereunder. Policy shall name the County as Additional Insured. Policy's limit of liability shall not be less than \$1,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this agreement or be no less than two (2) times the occurrence limit.

14.4 Vehicle Liability. If vehicles or mobile equipment is used in the performance of the obligations under this Agreement, then GIE shall maintain liability insurance for all owned, non-owned, or hired vehicles so used in an amount not less than \$1,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this agreement or be no less than two (2) times the occurrence limit. Policy shall name the COUNTY as Additional Insureds.

14.5 Professional Liability. Without limiting GIE's liability, GIE shall obtain, pay for and maintain in full force and effect at its sole expense, Professional Liability insurance covering negligent acts, errors and omissions in the performance of professional services with policy limits of not less than two million (\$2,000,000.00) per claim and four million (\$4,000,000.00) in the aggregate, insurance written by insurance carriers acceptable to County, throughout the term of this Agreement and for at least **four (4) years** after completion and County's acceptance of the ESA portion of the Project (whether through terms or endorsements providing for an extended reporting period ("ERP") or through renewal or replacement coverage including a retroactive date for prior acts coverage from commencement of Services under this Agreement or earlier, with all such ERP's, renewals and replacement coverage to be approved by County in its sole discretion). The professional liability insurance policy shall be written on a policy form designed to provide coverage for claims arising from negligent acts, errors, or omissions in the performance of professional services by GIE, its employees, agents and "Covered Professional Services" as designated in the policy and must include coverage for services performed in connection with the Work under this Agreement. Any policy exclusions affecting Services performed under this Agreement that would eliminate coverage must be deleted as pertains to this Agreement. Any deductible or self-insured retention shall not exceed \$50,000.00 unless otherwise approved by County. GIE's obligation to maintain this coverage shall survive termination of this Agreement and final payment hereunder.

14.6 General Insurance Provisions - All lines:

(a) Any insurance carrier providing insurance coverage hereunder shall be admitted to the State of California and have an A M BEST rating of not less than A: VIII (A:8) unless such requirements are waived, in writing, by the County Risk Manager. If the County's Risk Manager waives a requirement for a particular insurer such waiver is only valid for that specific insurer and only for one policy term.

(b) GIE must declare its insurance self-insured retention for each coverage required herein. If any such self-insured retention exceeds \$500,000 per occurrence each such retention shall have the prior written consent of the County Risk Manager before the commencement of operations under this Agreement. Upon notification of self-insured retention unacceptable to the COUNTY, and at the election of the County's Risk Manager, GIE'S carriers shall either; (1) reduce or eliminate such self-insured retention as respects this Agreement with the COUNTY, or (2) procure a bond which guarantees payment of losses and related investigations, claims administration, and defense costs and expenses.

(c) GIE shall cause GIE'S insurance carrier(s) to furnish the County of Riverside with either (1) a properly executed original Certificate(s) of Insurance and certified original copies of Endorsements effecting coverage as required herein, and (2) if requested to do so orally or in writing by the County Risk Manager, provide original Certified copies of policies including all Endorsements and all attachments thereto, showing such insurance is in full force and effect. Further, GIE. will provide thirty (30) days written notice shall be given to the County of Riverside prior to any material modification, cancellation, expiration or reduction in coverage of such insurance. In the event of a material modification, cancellation, expiration, or reduction in coverage, this Agreement shall terminate forthwith, unless the County of Riverside receives, prior to such effective date, another properly executed original Certificate of Insurance and original copies of endorsements or certified original policies, including all endorsements and attachments thereto evidencing coverage's set forth herein and the insurance required herein is in full force and effect. GIE shall not commence operations until the COUNTY has been furnished original Certificate(s) of Insurance and certified original copies of endorsements and if requested, certified original policies of insurance including all endorsements and any and all other attachments as required in this Section. An individual authorized by the insurance carrier shall sign the original endorsements for each policy and the Certificate of Insurance.

(d) It is understood and agreed to by the parties hereto that the GIE'S insurance shall be construed as primary insurance, and the COUNTY'S insurance and/or deductibles shall not be construed as contributory.

(e) If, during the term of this Agreement or any extension thereof, there is a material change in the scope of services or Work; or, there is a material change in the equipment to be used in the performance of the scope of Work; or, the term of this Agreement; the COUNTY reserves the right to adjust the types of insurance and the monetary limits of liability required under this Agreement, if in the County Risk Manager's reasonable judgment, the amount or type of insurance carried by the GIE has become inadequate.

(f) By appropriate written agreement, GIE shall require all tiers of subcontractors and consultants working under this Agreement to maintain the insurance coverages contained herein and to file required certificates of such coverage and additional insured endorsements with County, and, upon County's request, to provide copies of such insurance policies to County, but only to the extent such insurance is applicable to such subcontractor's or consultant's scope of work.

(g) GIE agrees to notify COUNTY of any claim in writing by a third party or any incident or event that may give rise to a claim arising from the performance of this Agreement.

**15. Miscellaneous.**

15.1 Further Assurances. Each Party shall, upon the reasonable request and at the sole cost and expense of the other Party, promptly execute such documents and perform such acts as may be necessary to give full effect to the terms of this Agreement.

15.2 Independent Contractors. The relationship between the Parties is that of independent contractors. Nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the Parties, and neither Party shall have authority to contract for or bind the other Party in any manner whatsoever.

15.3 No Public Statements or Use of Trademarks. Neither Party shall issue or release any announcement, statement, press release or other publicity or marketing materials relating to this Agreement, or otherwise use the other Party's trademarks, service marks, trade names, logos, domain names or other indicia of source, association or sponsorship, in each case, without the prior written consent of the other Party, which consent shall not be unreasonably withheld, conditioned or delayed.

15.4 Notices. All notices, requests, consents, claims, demands, waivers and other communications hereunder shall be in writing and shall be given in accordance with this Section 15.4:

If to GIE: GI Endurant LLC d/b/a GI Energy  
150 N. Michigan Ave, Suite 1250  
Chicago, IL 60601  
Attn: Dan McDevitt, COO  
E-mail: dmcdevitt@gienergyus.com

With a copy to: Attn: Jason Byrnes, Controller  
E-mail: jbyrnes@gienergyus.com

If to County: Riverside University Health System Medical Center  
26520 Cactus Avenue  
Moreno Valley, CA 92555  
Attn: Hospital Administration

With a copy to: County Counsel's Office  
County of Riverside  
3960 Orange St Ste 500  
Riverside, CA 92501-3644  
Attn: Martha Ann Knutson, Deputy County Counsel  
Email: mknutson@rivco.org

Notices sent in accordance with this Section 15.4 shall be deemed effectively given: (a) when received, if delivered by hand (with written confirmation of receipt), (b) when received, if sent by a nationally recognized overnight courier (receipt requested), (c) on the date sent by e-mail with confirmation of transmission, if sent during normal business hours of the recipient, and on the next business day if sent after normal business hours of the recipient or (d) on the third (3<sup>rd</sup>) day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid.

15.5 Interpretation. For purposes of this Agreement: (a) the words “include,” “includes” and “including” shall be deemed to be followed by the words “without limitation”; (b) the word “or” is not exclusive; and (c) the words “herein,” “hereof,” “hereby,” “hereto” and “hereunder” refer to this Agreement as a whole. Unless the context otherwise requires, references herein: (i) to Sections and Exhibits refer to the Sections of and Exhibits attached to this Agreement, (ii) to an agreement, instrument or other document means such agreement, instrument or other document as amended, supplemented and modified from time to time to the extent permitted by the provisions thereof, and (iii) to a statute means such statute as amended from time to time and includes any successor legislation thereto and any regulations promulgated thereunder. This Agreement shall be construed without regard to any presumption or rule requiring construction or interpretation against the Party drafting an instrument or causing any instrument to be drafted. All Exhibits referred to herein shall be construed with, and as an integral part of, this Agreement to the same extent as if they were set forth verbatim herein.

15.6 Headings. The headings in this Agreement are for reference only and shall not affect the interpretation of this Agreement.

15.7 Entire Agreement. This Agreement, together with all Exhibits, constitutes the sole and entire agreement of the Parties with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings and agreements, both written and oral, with respect to such subject matter.

15.8 Assignment; Successors and Assigns. Neither Party shall assign or otherwise transfer any of its rights, or delegate or otherwise transfer any of its obligations or performance, under this Agreement, in each case without the other Party’s prior written consent. Subject to the consent of the County, which shall not be unreasonably withheld, conditioned or delayed, the Parties agree that GIE may assign this Agreement to the Financier selected for this Project or any special purpose entity created on behalf of GIE and the Financing partner, provided such Financing partner agrees to sign the ESA. Any purported assignment, delegation or transfer in violation of this Section 15.8 is void. This Agreement is binding upon and inures to the benefit of the Parties hereto and their respective permitted successors and assigns.

15.9 No Third-Party Beneficiaries. This Agreement is for the sole benefit of the Parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other Person any legal or equitable right, benefit or remedy of any nature whatsoever, under or by reason of this Agreement.

15.10 Amendment; Modification; Waiver. This Agreement may only be amended, modified or supplemented by an agreement in writing signed by each Party hereto. No waiver by any Party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the waiving Party. Except as otherwise set forth in this Agreement, no failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from this Agreement shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

15.11 Severability. If any term or provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon a determination that any term or other provision is invalid, illegal or unenforceable, the Parties hereto shall negotiate in good faith to modify this Agreement



so as to effect the original intent of the Parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

15.12 Mutual Drafting. This Agreement is the product of negotiation by the Parties having the assistance of counsel and other advisors. It is the intention of the Parties that neither Party shall be considered the drafter hereof and that this Agreement shall not be construed more strictly with regard to one Party than to any other.

15.13 Electronic Signatures. Both Parties agree that the electronic signatures, whether digital or encrypted, of the parties included in this Agreement are intended to authenticate this writing and to have the same force and effect as manual signatures. Delivery of a copy of this Agreement or any other document contemplated hereby bearing an original or electronic signature by facsimile transmission (whether directly from one facsimile device to another by means of a dial-up connection or whether mediated by the worldwide web), by electronic mail in "portable document format" (".pdf") form, or by any other electronic means intended to preserve the original graphic and pictorial appearance of a document, will have the same effect as physical delivery of the paper document bearing an original or electronic signature.

15.14 Governing Law; Submission to Jurisdiction.

(a) This Agreement and all related documents, and all matters arising out of or relating to this Agreement, are governed by, and construed in accordance with, the Laws of the State of California, United States of America, without regard to the conflict of Laws provisions thereof to the extent such principles or rules would require or permit the application of the Laws of any jurisdiction other than those of the State of California.

(b) Each Party irrevocably submits to the exclusive jurisdiction of the California state courts with respect to any suit, action or proceeding arising out of or relating to this Agreement or the transactions contemplated hereby.

15.15 Approval. This Agreement is subject to and conditioned upon the approval of the County Board of Supervisors.

(a) GIE shall not provide partial delivery or shipment of Work, services or products unless specifically stated in the Agreement.

(b) GIE shall not provide any Work, services or products subject to any chattel mortgage or under a conditional sales contract or other agreement by which an interest is retained by a third party except as it pertains to Financing permitted hereunder. GIE warrants that it has good title to all materials or products used by GIE or provided to COUNTY pursuant to this Agreement, free from all liens, claims, or encumbrances.

(c) Nothing in this Agreement shall prohibit the COUNTY from acquiring the same type or equivalent equipment, products, materials, Work, or services from other sources, when deemed by the COUNTY to be in its best interest. The COUNTY reserves the right to purchase more or less than the quantities specified in this Agreement.

(d) The COUNTY agrees to cooperate with GIE in GIE's performance under this Agreement, including, if stated in the Agreement, providing GIE with reasonable facilities and timely access to COUNTY data, information, and personnel.

(e) GIE shall comply with all applicable Federal, State and local laws and regulations. GIE will comply with all applicable COUNTY policies and procedures. In the event that there is a conflict between the various laws or regulations that may apply, GIE shall comply with the more restrictive law or regulation.

(f) GIE shall comply with all air pollution control, water pollution, safety and health ordinances, statutes, or regulations, which apply to performance under this Agreement.

(g) GIE shall comply with all requirements of the Occupational Safety and Health Administration (OSHA) standards and codes as set forth by the U.S. Department of Labor and the State of California (Cal/OSHA).

## 16. **Disputes**

16.1 The Parties shall attempt to resolve any disputes amicably at the working/Project level. If that is not successful, as may be determined by either Party, the dispute shall be referred to the senior management of the Parties. Any dispute relating to this Agreement which is not resolved by the senior management of the Parties, as may be determined by either Party, shall be submitted to and decided by the County's Purchasing Department's Compliance Contract Officer who shall furnish the decision in writing. The decision of the County's Compliance Contract Officer shall be final and conclusive unless determined by a court of competent jurisdiction to have been fraudulent, capricious, arbitrary, or so grossly erroneous to imply bad faith. GIE shall proceed diligently with the performance of this Agreement pending the resolution of a dispute.

16.2 Prior to the filing of any legal action related to this Agreement, the parties shall be obligated to attend a mediation session in Riverside County before a neutral third party mediator. A second mediation session shall be required if the first session is not successful. The parties shall share the cost of the mediations equally.

16.3 Any claim, dispute, or other matter in question arising out of or related to this Agreement or Project that cannot be resolved between the Parties through mediation or otherwise shall be resolved by a court of competent jurisdiction in the State of California as provided in Section 15.14.

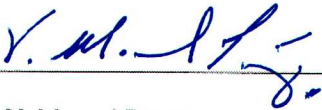
16.4 Nothing in this Agreement, including this Section, waives or modifies GIE's obligation to present a timely claim under Government Code section 900 et seq. Notwithstanding GIE's participation in mediation proceedings or other claims procedures, such proceedings are in addition to GIE's obligation to present a written Government Code claim, which is a prerequisite to filing a lawsuit for money or damages against County.


[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties hereto have caused their duly authorized representatives to execute this Agreement effective as of the date first above written.

COUNTY OF RIVERSIDE, a political subdivision of the State of California

GIE ENDUARNT, LLC (d/b/a GI Energy), a Delaware limited liability Company

By: 

By: 

Name: V. Manuel Perez

Name: Tom Chadwick

Title: Chairman, Board of Supervisors

Title: Chief Executive Officer

Date: DEC 15 2020

Date: 11/24/2020

DIR Registration No.: 1000011629

ATTEST:  
Kecia R. Harper  
Clerk of the Board

By: 

Title: Deputy

APPROVED AS TO FORM:  
Gregory P. Priamos  
County Counsel

By: 

Name: Martha Ann Knutson

Title: Deputy County Counsel

Date: 11/24/2020

## EXHIBIT A

### PROJECT DESCRIPTION

The County of Riverside through the Riverside University Health System, owns and operates a 439 bed regional Medical Center (RUHS-MC) located at 26520 Cactus Ave., Moreno Valley, CA. RUHS-MC was opened in 1998 and features approximately 560,000 square feet of space on 5 floors and six wings (Buildings A through F) in the original Medical Center building (“**Host Site**”).

A majority of Medical Center’s mechanical, electrical and plumbing systems are original to the Medical Center building and have reached or are anticipated to reach the end of useful service life. As a consequence, the Medical Center faces increasing operations and financial risks as its infrastructure becomes more challenging and costly for operations and maintenance staff to reliably operate.

Building F is the critical care facility for the Medical Center (“**Host Facility**”). There are 11 operating rooms located on the 2<sup>nd</sup> level and 2 C-Section rooms located in the 3<sup>rd</sup> level. There are 4 air handling units (“**AHU**”) original to the Medical Center, 3 of which serve the operating and C-Section rooms. The AHUs are installed on the roof of Building F and are a custom design featuring dual duct air with separate supply and return air fans.

The Riverside University Health System (“**RUHS**”) Medical Center has been experiencing humidity and temperature control issues in 11 operating rooms and 2 C-section rooms located in the Medical Center’s Building F. In response, RUHS commissioned a third-party engineering assessment to review the condition, capacity and capability of AHU to reliably serve Building F and outline recommendations to improve operational performance.

The AHUs are near or have reached the end of useful serviceable life, and now require replacement or extensive refurbishment in order to maintain code-compliant and consistent temperature and humidity parameters in the Building F operating rooms.

Under this Professional Services Agreement (“**PSA**”), GIE and its Project team members, shall perform detailed inspections of the AHUs associated duct work and develop scopes of work for replacement and refurbishment options in addition to total life-cycle costs and the preparation of AHU-related drawings and obtain OHSPD approval of those engineering drawing, Financing, and other related services in connection with the Project as more fully described in Exhibit C (the “**Work**”). The Work shall also include the identification and design of the optimal approach to provide temporary services and temperature and humidity control to the Building F operating rooms and 2 C-section rooms while the approved AHU Project is being installed.

Recognizing that the replacement or retrofit of the AHUs do not generate sufficient energy savings to offset Project engineering, equipment and installation costs, RUHS desires to have other energy efficiency and upgrade projects considered that may offset the cost the AHU portion of the Project. Following field inspections and interviews with RUHS management and staff, the Project may include some or all of the following:

- Hospital-wide lighting retrofits subject to OSHPD approval;
- Building Management System (BMS) upgrade or replacement and equipment retro-commissioning for incremental energy efficiency benefits;
- Photovoltaic solar to reduce imported electricity from Southern California Edison

("SCE");

- Expansion of cogeneration plant generation capacity to reduce imported electricity from SCE and produce chilled water with recovered heat; and
- Other energy efficiency and conservation projects to provide incremental savings to offset the cost of the AHU portion of the Project.

GI Energy shall complete engineering of these energy savings programs to sufficient level of detail to develop and indicative budget estimate, estimation of projected energy savings and proposals for those energy services projects sufficient for execution of a separate Energy Savings Agreement with GI Energy's Project Partner Redaptive to effectuate the financing, installation and maintenance of the AHU Project and all or selected energy savings projects.

**EXHIBIT B****SCHEDULE OF WORK, BREAK FEE and FINAL OSHPD ENGINEERING COST****A. Work Completion Schedule**

<b>Professional Services Agreement Task</b>	<b>Calendar Days (Estimate)</b>
Professional Services Agreement Execution	0
GIE Contracting Plan and Subcontract Execution	1-10
Work Plan and Schedule	5-10
Workshop	5-10
Air Handling Unit Inspections and Data Collection	6-15
Supplemental Interviews with RUHS Personnel	11-20
AHU Report and Presentation	30
AHU Replacement or In-Kind Determination	31-40
Presentation of Preliminary Solar and Combined Heat and Power Findings and Recommendations	40
AHU Basis of Design Development	31 - 60
Temporary AHU Plan Development	31 - 60
Lighting Audit and Energy Conservation Measure Review	31 - 60
Complete executable form of Energy Services Agreement	60
OSHPD Pre-Submittal Meeting	60
AHU Engineering and Specifications	61 - 99
50% Design Workshop and Preliminary Budget Review	100 - 105
Complete 95% OSHPD-Ready Plans and Not-to-Exceed Budget	106 - 145

Presentation of OSHPD-Ready Plans, Not-To-Exceed Budget and ESA System Work Order proposals	140 - 149
GIE Notice of Completion	150

**B. Break Fee**

The total Break Fee for the Work is \$791,000.00. The Break Fee is subdivided to specifically include \$587,000.00 for the Air Handling Unit System sub-project Work, \$80,000.00 for Distributed Energy Resource Systems sub-project Work and \$52,000.00 for Energy Services Agreement drafting and Systems proposals.

**C. Final OSHPD Engineering Cost**

The Not-to-Exceed Final OSHPD Engineering Cost is capped at \$100,000.00.

## **EXHIBIT C**

### **SCOPE OF WORK**

Due to the specific operational requirements of RUHS Medical Center, GIE and its Project team members shall be conducting a detailed HVAC equipment and controls survey & Engineering Study prior to the design and installation process. The purpose of this study is to identify Project requirements, design criteria, review of the existing conditions, identify system components requiring maintenance/repairs or replacement as per above reports, project pricing, OSHPD and other related coordination issues.

GIE and its Project team members shall execute the Project, providing a single source of accountability and responsibility from conception to completion of construction according to the following three (3) project tracks that shall be delivered in parallel due to the interdependencies of key equipment and financing approaches:

**1. Track A – Building F: Air Handling Units 1 through 4 Evaluation, Design Development and Engineering performed by GI Energy subconsultant Mesa Energy Systems:**

**A. Task 1.A - Preliminary Data Collection & Initial Workshop**

The first step of the Preliminary Assessment is to hold a workshop with RUHS staff to review the goals for the Project, collect necessary information, and introduce the teams. Action items during the Preliminary Assessment include:

- Obtain and review the most recent two to three years utility charges history (electric, natural gas, propane). Mesa Energy Systems shall perform Energy Utilization Analysis (EUA) that shall reveal utility rates structures, energy consumption trends & correlations with weather (heating & cooling degree days for the given geographical location) & other cyclical operational factors. EUA shall help in identifying the facility specific annualized factors such as kWh/sq., kBTU/sq., \$/sq/ft and average peak/off peak demand kW values.
- Interviews with County's executive team shall be conducted to review overall Project goals, estimated timelines, detailed expectations, and desired outcomes.
- Interviews with Host Facility personnel & management who oversee the site operations. The purpose is to learn about operational and maintenance practices, existing equipment and patient comfort challenges and many other operational issues or areas of concern.
- Mesa Energy Systems shall review building systems operational logs with maintenance personnel.
- Mesa Energy Systems shall obtain copies of all available as-built plans (structural, mechanical, electrical, plumbing), including both original and T.I. related plans.
- Preliminary schedule for the physical inspections shall be discussed.



The preliminary assessment shall serve as a road map for the project as a whole and prepare the team specifically for the IGA (Investment Grade Audit).

## **B. Physical Assessment & Basis for Design**

During the **Physical Assessment**, 2 to 3 small teams of qualified GIE's in-house HVAC and electrical technicians shall be deployed to the Host Facility to review all aspects of the HVAC systems above and below the roof in Building F, including but not limited to inspection of the following:

- Mesa Energy Systems' primary and most immediate task is to review original plans and specs for AHU's as well as conduct the physical inspections of the units. Upon these two tasks, our engineering team shall confirm that an "in-kind replacement" of the existing AHU's shall be an acceptable basis of design to satisfy OSHPD review as well as solve the long-term needs of the hospital. If it is determined that perhaps one or more AHU's are undersized, and "in-kind replacement" is not an acceptable solution, we shall notify the stakeholders immediately to discuss redesign options.
- With regard to the air and water distribution systems, it is our intent to restore existing the system performance to the original design parameters in a "maintenance approach" to construction. If it is determined, after review of the original plans and our physical inspections that this approach is not adequate to achieve the needs and/or design conditions, we shall notify the stakeholders immediately to discuss options.
- Air Handling Units 1,2,3 & 4 – all engineering related needs assuming the replacement of these units
- Assess the condition of all ancillary components "above the roofline" associated with the operation of AHU's 1-4, including the existing heat exchangers (coils), filter sections, condensate pans, outside air intakes, deteriorated exterior ductwork insulation
- Investigate the temporary cooling and heating solution to ensure consistent air quality during the replacement of the AHU's.
- Detailed inspections of the air distribution, temperature and humidity, and control systems "below the roofline" for AHU's 1-4.
- Inspect ductwork, terminal units, reheat coils for up to 180 existing zones.
- In order to repair/replace deficient components and to improve systems operation, Mesa Energy Systems technicians shall inspect and provide cost estimates for the following:
  - Internal lining inside terminal units - – Note that internal lining is not recommended in healthcare applications unless covered with foil or in a double wall application.
  - Ductwork and diffuser/grills cleaning or repairs

- Thermal insulation repairs
  - Additional humidifiers (as needed per customer input)
  - Reheat coils
  - Air and water distribution system balance – (Retro-commissioning)
- 
- Identify and diagnose Siemens controls system deficiencies such as failed sensors, pneumatically controlled actuators, and valves, and provide cost estimates and T-24 code compliant DDC control system upgrades.
  - Identify and provide cost and savings estimates for any additional ECM's, as applicable.
  - Identify and recommend Airborne **Engineered Infection Prevention (EIP)** measures “below the roofline” to help in reducing airborne particles (dust, pollen), odor reduction (VOC's) and pathogen reduction (bacteria, viruses, mold spores). Recommendations may include both airborne contamination solutions (Filtration, Bi-Polar Ionization, UVGI, UVC) and/or surface contamination solutions (Copper alloy surfaces, surface coatings, touchless automation) as deemed appropriate for the needs of the hospital.
  - Develop the plan to provide necessary repairs, retro-commissioning, addition of humidifiers, systems air- and water balance (as needed).
  - Comprehensive interior & exterior lighting audit.
  - Any additional ECM's: High efficient transformers, Power Shavers, VFD's (as applicable), etc.

#### **Codes and Analysis**

- Mesa Energy Systems shall research and apply all applicable codes and specifications required for the project. Including, but not limited to the following: 2019 Title-24, 2019 California Building Code (CBC), 2019 California Uniform Plumbing Code (CPC), 2019 California Uniform Mechanical Code (CMC) with corresponding OSHPD inclusions, the National Electrical Code (NEC), Sheet Metal & Air Conditioning Contractors' National Association (SMACNA) standards, NFPA 99, ASHRAE 90.1, etc.
- If design team uncovers or anticipates existing items that violate current codes, these items shall be expressed to Owner as soon as known.

#### **Environmental Conditions:**

- Outdoor conditions used for the design basis shall be per the ASHRAE Handbook for March AFB.

- Develop and confirm indoor design conditions (temperature and RH or dewpoint) for the various room types (if hospital targets numbers different than code, it shall be clarified).
- **Surgeon Criteria:** This input shall be sought very early in process as it may impact unit coil and operational requirements.
- **Existing Chilled Water and Hot Water Plant Setpoints:** Review existing plant operational parameters and reset sequences, if applicable. Determine if this shall impact the AHU selections and dehumidification capability of the coils.
- **Manufacturers:** Develop a list of acceptable manufacturers for all new equipment including but not limited to: AHUs, Humidifiers, Controls, Terminal Units (if required) for discussion with the hospital during the 50% design workshop.

#### **Detail the proposed AHUs:**

- **Unit Configuration:**
  - Order of sections: Review unit configuration (order sections including access, coils, and fans for best performance of coils and final filters). For example, can coil positions be changed to reduce saturated air loading of final filters? Can size of final filters be increased to reduce pressure drops?
  - Hot and cold deck: Confirm that unit configurations shall meet all current codes and standards and/or that continuing the current format shall be acceptable to AHUs.

#### **Technical Items Related to Space:**

- Final Filters for Critical Spaces: Review requirements for number of filter banks and MERV rating of is correct to the type of operating rooms and other spaces such as NICU served.
- Humidifiers: Develop a plan for addressing humidity concerns.
- Dual Duct Terminal Units:
  - Review the ability of the Dual Duct Terminal Units to meet Design Conditions for the spaces being served. Address any Humidity concerns. Explore if Dual Duct Terminal Units can be replaced with Single duct system.
  - **Downstream impact of AHU replacements:** If any operational parameters are changed, such as coil discharge temperature, the performance of downstream terminal units shall be reviewed for impact to cooling and reheat modes and capacity. A detailed psychrometric analysis of the different terminal unit configurations in different modes shall be performed during the Design/Build stage of the Project.

- **Smoke exhaust:** Confirm that operating rooms do not have smoke exhaust and/or do not require smoke exhaust per NFPA 99 and/or other applicable code requirements. Review any impacts on AHUs, pressurization, etc.
- **Fire/Smoke Partitions:** Confirm that existing ductwork is provided with all appropriate fire/smoke dampers and firestopping means at barriers and/or compartments. And AHUs should be confirmed to serve appropriate building areas/compartments without violation to code requirements.

**Controls clarifications:**

- AHUs: Pneumatic controls are noted to be updated at AHUs. Mesa Energy Systems shall propose a controls system that meets current design guidelines and county specifications.
- Controls System: SIQ shall confirm what specific changes are proposed for the BMS. And detail the product and/or system proposed for installation.
- Existing sequences: Review all existing sequences.
  - Does any type of SAT reset occur that could negatively impact building humidity?
  - Will a lower discharge air temperature and/or supply air reset sequences improve humidity and energy use?
  - Does chilled water temperature from plant reset to affect coil performance?
- **Phasing and temporary equipment plans:** Develop a phasing and temporary equipment strategy. Phasing and temporary equipment plans shall be required as part of the package for OSHPD approval.

The preliminary data collection and physical assessment information shall be reviewed by our in-house Licensed Professional Engineers (PE) & Certified Energy Managers (CEM) as well as experienced estimators. These findings shall be used as the basis for our design recommendations and shall be discussed with RUHS management prior to the start of the engineering/design phase.

**C. 50% Design Workshop**

After all the necessary data has been collected and reviewed, we shall schedule another client workshop to discuss findings and preliminary design recommendations. During this workshop, we shall facilitate an open and collaborative discussion on a variety of follow up topics, including but not limited to:

- Equipment manufacturer options and recommendations
- All recommended design options (HVAC, Controls, Lighting, Humidity, Infection Control, AHU filter options)

- Intended AHU sections, sizes, considered manufacturer's, and any proposed changes or features included in the new AHU's that would address humidity problems.
- A conceptual design layout for AHU's 1-4 shall be reviewed at this time
- Any potential challenges identified during the physical assessment
- Additional information (as needed) to complete the engineering/design process

The primary goal during this meeting is to ensure that Mesa Energy Systems is fully prepared to begin the design phase with a clear understanding of the County's needs and wants. We also want to be 100% sure that RUHS understands and agrees with the intended design approach.

#### **D. 95% Engineering & Design Documents – Full OSHPD Ready Plans**

During the Engineering & Design phase, our team shall be completing final engineering and a Not-to-Exceed (NTE) cost estimate.

- Mesa Energy Systems understands and shall use the current 2019 Title-24, 2019 California Building Code (CBC), 2019 California Uniform Plumbing Code (CPC), 2019 California Uniform Mechanical Code (CMC) with corresponding OSHPD inclusions, the National Electrical Code (NEC), Sheet Metal & Air Conditioning Contractors' National Association (SMACNA) standards.
- Mesa Energy Systems plans to replace AHU's-1 through 4, with "in-kind replacements." Therefore, the design intent is to match the existing units' performance, footprint, weight, electrical requirements, etc. with custom-built units. In order to minimize project costs and hospital disruption, SIQ's intent is to maximally re-use the existing air/water distribution systems, electrical, gas & condensate drain connections and other existing HVAC system components.
- Develop cost estimate for all recommended replacements and/or repairs for air distribution & temperature/humidity control systems associated with the operation of the AHU's 1-4 in building F
- Engage temporary heating and cooling equipment vendor to determine the most effective solution.
- Obtain 3rd party engineering costs for final plan development and OSHPD submission. Plans shall be prepared by licensed professional Mechanical & Structural engineers (P.E.'s)
- Develop cost estimates and energy calculations (as applicable) will be developed for LED lighting upgrade, Engineered Infection Prevention measures, and any additional scope requested by the client.
- During this phase, design approval layouts shall be completed and reviewed by outside consultants (mechanical, electrical & structural) for estimating accuracy

purposes only. Final engineering stamped drawings shall not be completed until after the Energy Services Agreement is completed.

- Mesa Energy Systems team shall engage in a collaborative design effort with both in-house and outside licensed Structural, Mechanical, and Electrical engineers. Preliminary design work shall be done “in-house,” and also be reviewed by an outside 3rd party engineering firms with extensive OSHPD experience prior to completion of the final engineered and stamped drawings to OSHPD.
- It is not the intent to redesign the existing air or water distribution systems serving operating or any other rooms, but rather to restore the existing systems performance to the original design parameters. For this purpose, the original design plans shall be closely followed during planned air and water balancing process, i.e. retro commissioning, throughout the building. While minimum OSHPD required values for temperature and relative humidity shall be the “baseline target”, RUHS surgeons or surgical procedures may require room temperatures, ventilation rates, humidity ranges, and/or air distribution methods that exceed the minimum indicated ranges. We shall work with the RUHS on modifying the set points as required during Testing and Air Balancing of the system

The **project cost estimates will be fixed** assuming no separate OSHPD submission is required during the OSHPD review process.

Cost estimates and survey results will be presented in the form of a design/build proposal with a description of the proposed work, options (if any), energy savings calculations (as applicable), equipment submittals, and recommendations

- Preliminary cost estimate based on engineered plans (pending final OSHPD approval) and design/build contract for all recommended replacements, repairs, and long-term O&M costs for AHU’s 1-4, including temporary cooling and heating during shutdown.
- Final cost estimate (assuming no separate OSHPD submission required) for all recommended replacements and/or repairs for air distribution & temperature/humidity control systems associated with the operation of the AHU’s 1-4 in building F
- Final cost estimate to address Siemens controls system deficiencies such as failed sensors, pneumatically controlled actuators, and valves, and provide cost estimates and T-24 code compliant DDC control system upgrades
- Final cost estimate for 100% OSHPD engineering and plan submittal
- Final cost estimate for LED lighting upgrade cost and savings
- Final cost estimate for Long-term Mesa Energy Systems provided O&M service scope
- Final cost estimate(s) and specifications for recommended **Engineered Infection Prevention (EIP) measures** for both airborne and surface contamination and pathogen reduction.

- Provide cost and savings estimates for any additional ECM's, as applicable, such as VFD's, etc.

**Mesa Energy Systems will provide final signed OSHPD ready engineered drawings and Title 24 calculations for OSHPD submission upon execution of Design/Build contract.**

Based on the engineering and cost-estimating prepared in this Engineering and Design scope of work, Mesa Energy Systems shall prepare and present a NTE cost for the AHU project to RUHS. If the County determines that the Engineering & Design deliverables and NTE cost are acceptable, they shall be incorporated into the Energy Services Agreement.

The Break Fee No. 1 associated with the Track A Tasks 1.A – 1D **AHU Sub-project** scope of work presented herein is **\$587,000**.

**E. Final OSHPD Engineering Cost**

During the Engineering & Design phase above, Mesa Energy Systems shall prepare and present a detailed Final OSHPD Engineering Cost proposal to RUHS to complete the following tasks under the Energy Services Agreement:

- Full OSHPD ready and stamped plans completed
- OSHPD plans submitted for review
- OSHPD changes (if needed)
- OSHPD Final Approval
- Updated AHU project cost (if applicable)

The Break Fee No. 2 associated with the Track A **AHU Sub-project** Task 1.E is actual cost incurred based on the estimated labor hours at the established hourly rates, allowable 3<sup>rd</sup>-party expenses plus 15% overhead and profit to obtain OSHPD Final Approval and to complete the Final OSHPD Engineering Cost subject to a not to exceed limit of **\$100,000**. The RUHS-approved Final OSHPD Engineering Cost shall be paid by RUHS to GIE following in the event the County does not issue a Notice to Proceed under the Energy Services Agreement for the Air Handling Unit project.

**2. Track B – Energy Efficiency and Distributed Energy Resource Projects (150 Calendar Days after Effective Date):**

**A. Energy Efficiency Projects**

The GI Energy Team shall perform onsite evaluations and assessments of the Host Site and Facility to identify technically and economically viable energy efficiency and energy conservation measures, including:

- Interior & exterior lighting
- High efficiency electrical transformers, power shavers, VFD's (as applicable)
- Legacy Siemens Building Management System (BMS)

Following evaluation and analysis, the GI Energy team shall present preliminary findings and recommendations to RUHS. Following the selection of energy efficiency projects, the GI Energy team shall complete the following tasks for selected projects:

- Develop cost estimates and energy calculations (as applicable) for interior and exterior lighting projects and identify applicable OSHPD approvals, if any
- Develop cost estimates and calculations for high efficiency electrical transformers, power shavers and VFDs
- Identify and cost BMS upgrade and replacement options and develop energy calculations and O&M cost savings estimates as appropriate
- Detailed proposals for the Energy Services Agreement

**B. Distributed Energy Resource Projects (“DER Sub-project”)**

- The GI Energy Team shall perform onsite evaluations and assessments of the Host Site to identify technically and economically viable distributed energy resource (DER) projects which decrease the use imported utility electricity and expand potential revenue opportunities for the County, including: Expansion of the existing RUHS 1,420 kW cogeneration plant to increase onsite electricity and chilled water production
- Ground-mount photovoltaic (PV) solar for potential behind-the-meter and export use cases

Following evaluation and analysis, the GI Energy team shall present preliminary findings and recommendations to RUHS. Following the selection of DER projects, the GI Energy team shall complete the following tasks for selected projects:

- Design development and NTE cost estimating (excluding electrical interconnection costs)
- Rule 21 interconnection pathway analysis, SCE pre-application consultation and application preparation
- Permitting and CEQA pathway analysis (NOTE: GI Energy assumes OSHPD approvals shall not be required for cogeneration or solar projects)
- Detailed proposals for the Energy Services Agreement including energy pricing, ground lease payments and revenue share structures

Track B Break Fees Subtotal - \$80,000.00.



**3. Track C – Energy Service Agreement Proposal and Project Financing (150 Calendar Days concurrent with Tracks A and B) and County NTP after Board approval**

- Prepare draft Energy Services Agreement with preliminary performance guarantees and exhibits for Owner review
- Complete Owner credit analysis and underwriting review
- Complete Project construction and Operations & Maintenance contracting plans and executable contracts
- Develop Project financing plan

Track C Break Fee Subtotal - \$52,000.00

The following information is to be obtained prior to commencement of the Professional Services Agreement in order to complete the Scope of Work contained in this Exhibit C within 150 calendar days:

1. All available as-built plans of record including all the latest Medical Center improvements.
2. Southern California Edison energy audit.
3. Most recent 12 months of utility usage and billing history (required for energy savings calculations & for PV solar system sizing).
4. Original Building F AHU 1-4 Engineer of Record submittals and any available documentation on existing humidifiers
5. Most recent fiscal year audited financials.
6. Any specific requirements desired by County (if any).

**The Total of Break Fees 1, 2 and 3 for the all services above: \$ 719,000.00 plus \$100,000.00 Not-to-Exceed Final OSHPD Engineering Cost (if applicable).**

**EXHIBIT D**

**GIE KEY PERSONNEL AND TEAM MEMBERS AND DIVISION OF RESPONSIBILITIES**

**A. GIE's Services:**

**Fully outsourced solution implementation**

Manage design, subconsultant contract performance, competitive bidding, procurement, and installation - in close coordination with RUHS staff under a "single source" type contract

**No upfront capital required, no impact on County' bonding capacity**

Structured as an Energy Services Agreement with levelized payments for equipment and O&M - this results in the lowest financing cost

**Guaranteed Function**

If equipment does not perform as guaranteed, RUHS shall not be obligated to make payment until performance is remedied throughout the financing period

**All Maintenance Included with one point of contact**

GIE and Redaptive/Mesa Energy Systems shall have a fully resourced maintenance and service team, with 24/7 support, remote monitoring and ability to deploy technicians during unforeseen downtime events

Launched in 2006, GI Energy (GIE) specializes in distributed energy resource (DER) development, including financing, construction and operations. GIE helps customers (including healthcare facilities, real estate developers, educational institutions, municipalities, utilities and commercial and industrial building owners) leverage state-of-the-art technologies to hedge against volatile energy prices, improve energy reliability and reduce environmental impacts. This in turn increases energy savings, decreases risk and improves operational efficiencies.

GIE's team has nearly 15 years of experience designing, installing, project managing, constructing, commissioning and maintaining cogeneration systems,

geothermal systems, and other DERs. Feedback from operating cogeneration plants in New York and California inform and improve our performance and economic models.

Our construction and project management team's core experience is in managing all the major professional trades – from electricians, plumbers, and pipe fitters to riggers, mechanical contractors and engineering experts.

Key business information includes:

Company Name	GI Endurant LLC d/b/a "GI Energy"
Branch Address	1196 N. Grove St., Suite B, Anaheim, CA 92806
Corporate Address	150 N. Michigan Ave., Suite 1250, Chicago, IL 60601
Branch Telephone Number	312.894.4646
Website	<a href="http://www.gienergyus.com">www.gienergyus.com</a>
Primary Project Contact	Jeff Bogg
Primary Contact Email	<a href="mailto:jbogg@gienergyus.com">jbogg@gienergyus.com</a>
Primary Contact Telephone Number	714.916.2305
Contractor License	CSLB A-General Engineering Contractor 1015648
CA DIR Number	1000011629

**B. GIE's Key Personnel for the Professional Services Agreement are:**

<b>Name</b>	<b>Title</b>	<b>Responsibilities</b>	<b>Time Commitment</b>
Dan McDevitt	Chief Operating Officer	PSA administration Subconsultant contract administration ESA proposal review	10 – 15%
Jeff Bogg	SVP Service Solutions	Overall Project coordination for PSA Scope, technical and budget deliverables	20 – 30%

		DER vendor and contractor evaluations	
		Account management	
Amir Yanni, CEM	SVP Engineering and Project Management	DER project scope of work, preliminary engineering and equipment specifications	25 – 35%
		DER vendor and contractor evaluations	
		DER capital and O&M budgets, schedules	
		ESA proposal development for DERs	
Tim Banach	VP Development	Techno-economic evaluation of DER projects	20 – 30%
		Rule 21 interconnection, permitting	
		ESA proposal development	
Pete Falcier	VP Analytics and Regulatory Affairs	Regulatory and tariff analysis	10 – 15%
		Battery Energy Storage options and economics	
		Power Purchase Agreement pricing analysis	
Corina Solis	Associate Director, Development	Cogen and solar solution development	10 – 15%
		Investment Tax Credit analysis	
		Vendor RFPs and evaluations	

**C. GI Energy’s Team Members/Subconsultants for the Professional Services Agreement**

**i. Mesa Energy Systems, Inc.**

EMCOR Service Mesa Energy Systems, Inc. (EMCOR/Mesa) is a wholly owned subsidiary of the EMCOR Group. EMCOR Group is a global leader in mechanical and electrical construction, energy, and facilities services. FORTUNE Magazine announced their “2009 Fortune’s Most Admired Company’s” and EMCOR is again ranked #1 as the World’s Most Admired Company in the Engineering and

Construction Category. This is the second consecutive year as #1 in the “World” and the third consecutive year as #1 in “America.”

EMCOR Services Mesa Energy Systems is a licensed HVAC maintenance, service, building automation, and retrofit contracting company, headquartered in Irvine, California. We have 12 offices blanketing Southern and Northern California, as well as offices in Arizona and Nevada. The recent demands of the marketplace have transformed us into an Energy Solutions Company, assisting our customers in achieving optimal building energy performance, using improved maintenance, forward thinking retrofits, Solar installations, and ongoing commissioning resulting in favorable ROI energy retrofits.

Collectively, EMCOR has completed more than 50,000 mechanical and BAS-type projects nationwide, including more than 500 projects for buildings in Southern California that have in excess of 500,000 square feet. Since our inception in 1983, EMCOR/Mesa has remained steadfast in our commitment to exceptional safety standards and quality construction. We have earned a reputation for providing value to our many satisfied customers through high-quality services, and efficient, cost-effective, customized retrofit solutions.

EMCOR/Mesa has been providing services to hospitals for over 20 years. We are currently the maintenance and preferred retrofit provider for chillers, cooling towers, air handlers, variable speed drives and building automation systems at various hospitals throughout California, Arizona and Nevada. Our extensive knowledge of working within OSHPD and ICRA requirements will insure a successful project.

The EMCOR/Mesa Team has demonstrated successful implementation of management actions to identify and mitigate potential problems while providing quality products and services safely, within budget, and on schedule. schedule.

Key business information includes:

Company Name	Mesa Energy Systems, Inc.
Branch Address	2 Cromwell, Irvine, CA 92618
Corporate Address	2 Cromwell, Irvine, CA 92618
Branch Telephone Number	949-460-0460
Website	<a href="http://www.mesaenergy.com">www.mesaenergy.com</a>
Primary Project Contact	Bryan Gilbert
Primary Contact Email	<a href="mailto:bgilbert@emcor.net">bgilbert@emcor.net</a>
Primary Contact Telephone Number	951-377-7434

Federal Tax ID Numbers	33-0112640
Business Structure	Corporation

Key personnel and assignments for Mesa Energy Systems are summarized as follows:

<b>Name</b>	<b>Title</b>	<b>Responsibilities</b>	<b>Time Commitment</b>
Bryan Gilbert, LEED AP	Vice President of Building Automation and Integrated Systems / Executive Account Manager	Project Development, Account Management	10-15%
Rob Fried, P.E. CA License 288285	Director of Engineering	AHU existing Plan Spec Review, OSHPD pre-submittal consultation, 50% engineering, 50% Design workshop.  California-licensed engineer with "responsible charge" of the PSA engineering work under Business & Professions Code Section 6735	25-35%
Tracey Jumper, CCP	Director of Commissioning	Commissioning and FPT Development, Implementation and Execution	15-20%
Patrick Taylor	Director of Pre-Construction	Project Budget Development, Long Term O&M plan and budget, AHU existing Plan Spec Review	20-30%
Paul Vitolo, P.E.	Director of Automation	DDC controls design and specifications	10-15%

	- Southern California		
Chikezie Nzewi, P.E., CEM, CBCP, LEED AP	Director of Energy Engineering	Lighting Scope Development and Design, Additional Energy Efficiency project specifications	20-25%
Bill Hayden	Sr. Project Manager	Project Management, Engineered Infection Prevention, Physical Audit Planning and Oversight	50-60%

**ii. Redaptive**

GI Energy has selected Redaptive for the financing and execution of the Energy Service Agreement as described in Exhibit C "SCOPE OF WORK, SCHEDULE AND BREAK FEE" Track C "Energy Service Agreement Proposal and Project Financing."

Redaptive is a market-leading program for the enablement of large-scale energy, efficiency and clean generation technologies in healthcare organizations real estate portfolios. Redaptive provides innovative, off-balance sheet financing and procurement options, as well as meter-based savings measurement & verification solutions. Redaptive has built a customer portfolio of more than 100 million square feet under management and has a proven track record of delivering energy savings and greenhouse gas (GHG) reductions for customers within the healthcare, higher-education, industrial, manufacturing and telecom sectors.

Redaptive has a demonstrated track record of helping healthcare customers avoid using capital budget while letting Redaptive inherit the risks and responsibilities of system-wide efficiency upgrades. Redaptive delivers this value by paying for all project costs, absorbing financial and maintenance risk, and providing granular insight into asset-level energy consumption delivered via the Energy Services Agreement.

Redaptive has over 2000+ sites under management, in 44 U.S. states, and five countries in North America and Europe. Customers range all sectors of the economy, and have financially and operationally benefitted from the deployment of multiple various building, energy, and water technologies.

The largest customers, all of which have executed \$20M+ projects with Redaptive, include AT&T, Iron Mountain, Bank of America, Aramark, McKesson and Prospect Medical.

Key business information includes:

Company Name	Redaptive
Corporate Address	340 Brannan St #400, San Francisco, CA 94107
Telephone Number	<u>415.413.0445</u>
Website	www.redaptiveinc.com
Primary Project Contact	Edward Spall
Primary Contact Email	<u>Edward.Spall@redaptiveinc.com</u>
Primary Contact Telephone Number	646.574.9889

Key personnel and assignments for Redaptive are summarized as follows:

<b>Name</b>	<b>Title</b>	<b>Responsibilities</b>	<b>Time Commitment</b>
Joel Ullmann	SVP, Strategic Projects	Indicative Financing & Structuring	10%
Brett Abraham	Counsel	Draft ESA and exhibit development	5%
Edward Spall	Sales Executive	Sales/Account Management Building Management Systems Energy engineering and analysis	5%
Liz Lai	Director, Strategic Projects	Economic analysis	10%
Matt Gembrin	CFO	Credit analysis and underwriting	5%
Ian Larson	SVP, Construction Solutions	Constructability review	5%
Evan Scott	Manager, Energy Engineering	Performance guarantees Sub-metering scoping	10%
Liz Irby	Director, Financial Operations	O&M delivery planning	5%

**D. Resumes of Key Personnel**  
**a. GI Energy**



**Dan McDevitt**

***Chief Operating Officer***

Dan is responsible for all aspects of GIE's operations, providing leadership across the business. Dan has almost 30 years of extensive experience managing complex projects across multiple partners and stakeholders. He oversees processes such as project execution and takes executive responsibility for our Service Solutions business. He coordinates processes across the Sales, Development and Execution fronts.

Dan has an engineering background, and began his career designing and building power facilities with Sargent and Lundy. Before joining GIE he spent 10 years building the US operations of two wind turbine manufacturers and developers, most recently with Nordex USA where he was involved in almost 1GW of installations.

Dan's alma mater is Northwestern University's Kellogg School of Management, where he completed his MBA focusing on Operations and Finance. He is also an alumnus of the University of Notre Dame (BSc Mechanical Engineering).

**Jeff Bogg**

***Senior Vice President, Service Solutions***

Jeff joined GIE in May 2018 to grow Service Solutions by implementing new commercial and technology strategies and expanding the base of service contract and new project development operations. Jeff brings nearly 20 years of experience to GIE, working at the intersection of energy, the environment and technology to facilitate the shift to low carbon infrastructure. He has a proven track record of developing high capital and technically complex projects, applying financial analysis, asset due diligence, commercial structuring, technology and strong team leadership.

Prior to GIE, Jeff was employed with Zero Waste Energy, LLC where he served as the lead project development executive in an industry-leading cleantech company that developed

\$150 million in integrated organics processing and distributed energy projects. He has prior senior-level business, operations and project development positions with NTR plc an international clean infrastructure firm, Sempra Energy a Fortune 500 energy company and ICF International a leading energy consultancy.

He holds both masters and bachelor's degrees from the University of Illinois, Urbana-Champaign.

**Amir Yanni**

***Senior Vice President of Engineering and Project Management***

Amir oversees the engineering and construction activity of all distributed energy projects

developed by GI Energy. In his current role, Amir completed the largest CHP project in a commercial office building in NYC area, a 6.2 MW combined heat and power plant that provides the building with 60% of its peak electrical demand and 30% of its thermal energy demand. He also provided a turnkey design/build of the 4.8 MW CHP plant at North Shore towers, Floral Park NY, and construction and commissioning of the Geothermal project at Cornell Tech, Roosevelt Island, NY (380 Ton system). Amir was instrumental in completing the first synchronous interconnect CHP system in Consolidated Edison or New York history, located in Midtown Manhattan. The 1.6 MW system provides a Class "A" Commercial Office Building with 80% of its electric power and 65% of its thermal energy requirement; he has completed over 20 MW of CHP Systems design studies for various commercial buildings throughout midtown Manhattan.

Amir's experience in managing the design and construction of CHP facilities predates his time with GI Energy, having worked on CHP projects at the University of Connecticut HT, 717 5th Avenue New York NY and the Transamerica Building in San Francisco CA.

Amir received a Bachelor of Science in Mechanical Engineering from Cairo University in Egypt and professional accreditations in Cogeneration Technology and Utility Energy Services from the University of Wisconsin, and Project Management from George Washington University.

#### **Tim Banach**

##### ***Vice President, Development***

Tim heads GI Energy's Analytics team out of the New York office. His primary responsibilities include guaranteeing the quality of the output of his Analytics team, assessing the commercial viability of development opportunities, and advising corporate strategy. He has extensive experience in developing and analyzing CHP projects, and has worked on conducting feasibility assessments, tariff analyses and financial modelling of district-scale sustainable infrastructure development.

His repertoire of key projects includes the Hunter's Point Eco-District in San Francisco CA, for which GIE developed a recycled water, district geothermal, solar, and battery storage solution; Energy Efficiency and Renewable Energy Opportunity Assessment for the University of Maryland; CHP development for the Empire State Building in New York NY and Gateway Plaza in White Plains NY; and Connecticut's first microgrid in Hartford, CT.

Tim maintains an expert understanding of utility energy tariffs for various regional utility service territories and their associated impacts on various distributed generation assets. Additionally, he monitors the regional policy landscape as it relates to distributed generation, particularly in the Northeast and California.

He holds a Bachelor of Science in Biology from Loyola University in Maryland and a Master of Science in Environmental Policy from Bard College.

#### **Pete Falcier**

##### ***Vice President, Analytics & Regulatory Affairs***

Mr. Falcier manages GI Energy's distributed energy resource (DER) project development process from the energy & financial modeling stages, through state and federal incentives, and into Measurement & Verification (M&V) and commercial operations. In his decade-long tenure at GI Energy, he has led the firm from its initial CHP focus into a pioneering position in the energy storage industry. He has expertise in DER tariff & billing analysis, conducted more than 20 NYSERDA-approved detailed CHP feasibility studies for the most prominent NYC real estate groups, and helped author DER legislation and regulations for the states of New York and Connecticut. Mr. Falcier has presented on DER development and tariffs to the US Department of Energy Electricity Advisory Committee (US DOE EAC), the New York Battery and Energy Storage (NY-BEST) Technology Consortium, the International District Energy Association (IDEA), New York chapters of the US Green Building Council (USGBC) and American Institute of Architects (AIA), to energy constituents of the Real Estate Board of New York (REBNY), and to heads of staff of the New York State Department of Public Service (NYS DPS) and Connecticut Department of Energy & Environmental Protection (CT DEEP). He is also involved in the data interface and performance management of GI Energy's DER systems. He and the GI Energy analytics team are developing models and conducting regulatory investigation of California utility rate structures and DER incentives, including those of Pacific Gas and Electric Company (PG&E) and Southern California Edison (SCE).

Mr. Falcier joined GI Energy after graduating from the Columbia University School of International & Public Affairs (SIPA), where he received a master's degree in Energy Management & Policy. He was a co-author of a report for the New York City Economic Development Corporation (NYC EDC) on the viability of CHP in meeting New York City's peak power demand—a report that helped establish a goal of 800 megawatts (MW) of DER in Mayor Bloomberg's PlaNYC 2030, then New York's long-term sustainability master plan. Prior to graduate school, Pete served as a planner for the Berkshire Regional Planning Commission in Massachusetts, focusing on wind farm development and smart growth. He holds a bachelor's degree in Physics from Middlebury College.

## **Corina Solis**

### ***Associate Director, Development***

Ms. Solis contributes as a member of GI Energy's analytics team out of the New York office. Ms. Solis oversees technoeconomic modeling for cogeneration, solar PV, storage, ground-source heating and cooling, and fuel cell technologies, as well as district microgrid integration. Ms. Solis develops technical and financial solutions around the regulatory constraints of distributed generation, leading them into construction. She manages GI Energy's premier energy storage demonstration project with Con Edison, part of the New York REV initiative, which spans site selection, permitting, controls integration, client management, through to commissioning and NYISO market participation. She also conducts ongoing performance assessments of operational assets to better inform the modeling and performance of existing and future projects.

Prior to joining GI Energy, Ms. Solis gained experience benchmarking building energy use, evaluating potential and actual distributed energy generation technology performance, and

facilitating ENERGY STAR labelling and LEED-EB Certifications for high-performance buildings. She holds a Bachelor of Science in Environmental Science and Policy from St. Edward's University in Austin, Texas, and a Master of Environmental Management from Yale University in New Haven, Connecticut. She is an accredited LEED AP, WELL AP, Fitwel Ambassador, and Energy Manager in Training.

## **b. Mesa Energy Systems**

### **Bryan Gilbert**

#### ***Vice President of Building Automation, Executive Account Manager***

Mr. Gilbert has over thirty years' experience in the HVAC industry. He is highly skilled at assessing a project's core requirements, Bryan leverages his broad contracting, engineering, maintenance, and service background to identify ways clients can effectively use Mesa's expert direct digital controls, retrofit capabilities, and mobile services. Through this work, he helps Mesa deliver solutions that can improve facility operations, reduce energy consumption, lower costs, and deliver optimum performance.

Bryan's client and project experience ranges and includes: the NASA Jet Propulsion Labs in Pasadena, Arrowhead Regional Medical Center, the VA Hospital in Loma Linda, The County of San Bernardino, Wells Fargo Bank, various major high-rise buildings, and pharmaceutical facilities, among others.

At the above sites, Bryan has been responsible for the development and design of projects ranging from sheet metal work, to service repairs, to large retrofits that include energy efficiency measures.

### **Tony Ghaffari**

#### ***Senior Vice President of Engineering***

Mr. Ghaffari is Senior Vice President of engineering for EMCOR Service/ Mesa Energy Systems, Inc.. Mr. Ghaffari helps clients analyze, evaluate, design and implement energy and other retrofit solutions engineered for optimum performance and long range value. After gaining an understanding of a client's wants and needs, he identifies options and recommends innovative ways to improve energy efficiency and increase energy savings. Once a project is under way, he monitors its progress to ensure that all engineering specifications are adhered to and that the finished installation meets the client's performance expectations. Mr. Ghaffari has more than twenty years of industry experience.

After holding project manager and regional project manager positions with York, he moved to Johnson Controls, where he was area construction sales manager with a five state territory. He joined Mesa in 2001 as director of engineering and business development. Mr. Ghaffari has extensive expertise in designing and engineering HVAC systems, and in analyzing their financial performance. Over the years, he has also accumulated considerable knowledge of thermal

storage systems, chiller plants, power generation projects, boiler systems and package rooftop units, as well as direct digital controls and systems integration. He holds a bachelor's and master's degree in mechanical engineering from the University of Colorado Boulder. Mr. Ghaffari will be responsible to oversee the production of the mechanical specifications, plans and construction documents needed to complete the project.

**Wayne Lacher**

***Vice President of Retrofit and Project Management***

Mr. Wayne Lacher has over thirty years' experience in the HVAC industry. Mr. Lacher has had experience in the installation, and service of all sizes of packaged AC equipment, air handlers, chillers, cooling towers, boilers, air compressors, EMS systems and variable speed drives. He has worked with conduit and wiring installation, panel building, ductwork sizing and engineering, duct installation, mechanical piping and general sheet metal fabrication and installation. He has experience with rigging using cranes up to 500 tons and multiple size helicopter lifting. He provides and maintains CPM schedules for review by management and the customer's project team.

**Rob Fried, P.E.**

***Director of Engineering***

Since 1989 as Sr. Engineer, Project Engineer, Engineering Manager and now Director of Engineering at EMCOR Mesa is able to incorporate his varied experiences into new technologies and designs opening new opportunities for project and solutions for our clients.

Mr. Fried has been a registered professional Mechanical Engineer in the State of California since 1993 (License #M28285). He has also been registered in the states of Arizona, Texas and New York and was issued a certificate as a LEED Accredited Professional in 2008.

Mr Fried will oversee the development of the OSHPD approved drawings and engineering.

**Paul Vitolo, P.E.**

***Director of Automation***

Mr. Vitolo has over 30 years' experience in the construction industry, 23 of which are in the building automation field. Starting as a Field Mechanical Engineer with a General Contractor for 3 years in New York City. Followed by 18 years with Siemens Building Technologies (formally known as Landis & Gyr) with experience as a Field Tech, Design Engineer, Project Manager, Engineering Manager, Branch Operations Manager and District Operations Manager. Paul was the San Diego Branch Manager for Carrier for 4 years, where he was responsible for the Sales and Service of their Applied (25tons and above) equipment lines. He also served as the Vice President of Operations for Climatec for 6 years.

Mr. Vitolo been involved in the design and construction of projects such as; St. Luke's Roosevelt

Hospital in NYC, St John's Hospital in Santa Monica, Ronal Regan UCLA Medical Center in Los Angeles, and Rady Children's Hospital in San Diego.

Mr. Vitolo will be responsible for overseeing the design and implementation of the Building Automation system for the project.

**Ms. Tracey Jumper, CCP**

***Director of Commissioning***

Tracey Jumper is the Corporate Director of Commissioning for Mesa Energy Systems. Tracey is a Certified Commissioning Professional who will provide oversight of operations-based plan reviews, installation checks, systems testing, and effective training procedures--all to ensure a rigorous, well recorded performance verification and smooth turnover of your systems. Tracey holds a Bachelor of Architectural Engineering (BAE), Mechanical & Engineering Specialty from Penn State. Her recent project experience with hospitals includes; ARMC Nurse Tower and the VA Hospital Boiler Plant Renovation in San Francisco, CA.

**Chikezie Nzewi, P.E., CEM, CBCP, LEED AP**

***Director of Energy Engineering***

Mr. Chikezie has fifteen years of industry experience coupled with extensive knowledge and background in energy efficiency projects. He began his career as an analyst with ESS Engineering and progressed to roles with increasing responsibility, including a mechanical engineer and mechanical project manager. Most recently, Chikezie held the role as engineering manager for Willdan Energy Solutions, performing detailed audits, initiating resource scheduling and planning, and quality control and assurance accountability. Chikezie's achievements have been instrumental to his thriving career with Mesa. His project accomplishments range within the education, healthcare, hospitality, and federal sectors.

Chikezie holds a Bachelor of Science in Mechanical Engineering from San Francisco State University. He is a certified Professional Mechanical Engineer, Energy Manager, Building Commissioning Professional, and is a LEED Accredited Professional. Chikezie is an active member in industry-leading organizations, including ASHRAE, American Society of Heating Refrigeration & Air Conditioning Engineers AEE, Association of Energy Engineers ASME, and American Society of Mechanical Engineers.

**Bill Hayden**

***Senior Project Manager***

Mr. Hayden has over 30 years of experience managing and developing large mechanical retrofit projects. He was responsible for Mesa securing and executing a \$23M contract with NAVFAC for the retrofit of mechanical and control systems at multiple locations. Bill oversaw the design and

construction phases. He is currently wrapping up the ARMC Nurse Tower project where he managed workflow, MOPS ICRA permits and personnel to retrofit existing AHUs in an active hospital during COVID. Bill we be able to dedicate up to 50% of his time to oversee the Project

**c. Redaptive**

**Joel Ullmann**

***SVP, Strategic Projects – Role at RUHS - Indicative Financing & Structuring***

Joel is SVP and head of the Strategic Projects Team at Redaptive where he leads financial structuring, development, and execution of large projects. Prior to Redaptive, Joel was head of The Nielsen Company's Telecom Data Analytics group supporting a \$100 million global market research practice for clients like AT&T, Verizon, Apple, and Google. Prior to Nielsen, Joel spent over 10 years in the commercial real estate sector.

During his career in real estate he held roles ranging from commercial real estate finance and investment to development and construction. He has financed hundreds of millions of dollars in commercial real estate debt transactions, managed the development of class A high rise office buildings and cryogenic air distillation facilities and worked as a licensed general contractor in office, retail and industrial tenant improvement projects.

Joel holds a Mechanical Engineering degree from Rensselaer Polytechnic Institute and an MBA from Stanford's Graduate School of Business.

**Brett Abraham**

***Counsel***

In conjunction with Redaptive's general counsel, Brett leads contract negotiation and drafting at Redaptive. He also advises on internal taxation and finance matters. Prior to Redaptive, Brett represented municipalities and investment banks on large securitizations and real estate transactions, including engagements for The City and County of San Francisco, Stanford University, Goldman Sachs, and Trinity Health System. Brett also cofounded a mobile application startup and represented entrepreneurs in a legal technology clinic. Overall, Brett has seven years of experience providing legal advice on technology, real estate, and finance transactions.

Brett holds a BA in Global Studies, with honors, and Minor in Public Affairs from University of California, Los Angeles and a JD and a Taxation Certificate from University of California, Hastings College of the Law.

Brett is licensed to practice law in the State of California.

## **Edward Spall**

### ***Sales Executive***

Edward is an experienced energy, sustainability, and infrastructure professional with over 20 years of finance and technical experience in decentralized energy, ESCO's, O&M, and concession-based infrastructure programs. Healthcare experience ranges from advising multiple healthcare systems in the US to large municipal hospital Public Private Partnerships (PPP) and Private Finance Initiatives (PFI) in Europe. Previously, Edward spent a decade at Engie serving in a variety of senior positions in Europe and North America including leading the vast UK Energy & Sustainability business.

Edward trained as a controls, commissioning and instrumentation engineer; he holds an MBA specializing in Finance and Risk Management, a Master's in Energy Finance and a Bachelor's in Engineering.

Edward is a fully Chartered & Registered Engineer CEng - UK Engineering Council and a fully Chartered Energy Manager - Energy Institute London

## **Liz Lai**

### ***Director, Strategic Projects***

Liz works on the Strategic Projects Team, where she supports the financial structuring, project finance, and account management of complex energy efficiency and generation projects. Before joining Redaptive in 2017, Liz was a consultant for a social enterprise investment firm. She worked for the federal government, where she briefed senior policymakers at the White House on international trade and finance issues as a subject matter expert.

Liz holds a BA in Organizational Studies from the University of Michigan. She also has a MPP from the University of California, Berkeley where she focused on Energy and Environmental Studies.

## **Matt Gembrin**

### ***Chief Financial Officer***

Matt Gembrin is responsible for the Finance, Legal, Project Capital, Procurement and Accounting functions at Redaptive. Previously, Matt was a credit analyst at Wells Fargo Securities managing investments in high yield corporate bonds and leverage loans for the Bank's proprietary account. Prior to his role on the prop desk, Matt was a corporate banking analyst.

Matt graduated from UC Berkeley and is a CFA charter holder.



**Ian Larson**

***Senior Vice President, Construction Solutions***

Ian is the Exec of Construction at Redaptive. His responsibilities include management of solutions auditing and delivery teams for large energy saving opportunities, mechanical and electrical plant upgrades and construction projects. Previously, Ian worked at a clean energy company as the VP of program management and customer service.

Ian's background includes: VP of PMO and Customer Service from an energy efficiency and lighting controls company - Managing facilities, Project Managing and estimating work for several general contractors - working for a large mechanical contractor as a designer, estimator and PM and managing the capital program and clinical product development for a large Pharma/medical device/equipment provider. Ian has designed, estimated, managed and/or overseen hundreds of millions of dollars of construction projects in the commercial office, hospital, pharma/device, warehouse spaces in his various roles.

Ian holds a Business degree from Notre Dame De Namur in Belmont California

**Evan Scott**

***Manager, Energy Engineering***

Evan's role at Redaptive involves auditing/scoping large projects, performing energy savings calculations for PACE & EaaS financing, and managing Redaptive's M&V approach. Prior to Redaptive, Evan spent 3 years as an Energy Engineer at a Service Logic Company where he developed ESPCs (Energy Savings Performance Contracts) in the education and health-care sectors. He also piloted and delivered Redaptive's leading building analytics platform.

Evan holds a Chemical Engineering degree from North Carolina State University as well as a dual MSc in Sustainable Energy Engineering from the Polytechnic University of Catalonia & the Royal Institute of Technology.

Evan is a Certified Energy Manager

**Liz Irby**

***Manager, Financial Operations***

Elizabeth joined Redaptive in 2015 helping to build many of Redaptive's departments and architecting internal systems across the company. For the past two years Elizabeth oversaw Redaptive's project capital administration and now leads Redaptive's post-installation operations including maintenance, invoicing, and compliance. Prior to joining Redaptive, Elizabeth ran operations for an internationally touring classical chamber orchestra, before joining Kleiner Perkins Caufield & Byers to work on their Green Growth Fund.

Elizabeth holds dual degrees in Art History and Architectural Theory from Brown University.