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**MARICOPA COUNTY SPECIAL HEALTH CARE DISTRICT  
d.b.a. VALLEYWISE HEALTH**

**STANDARD FORM AGREEMENT  
BETWEEN OWNER AND**

**XXXXXXXXXXXX**

**For Job Order Contracts**

*January \_\_, 2015 Edition, as amended February, 2015*

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## STANDARD FORM AGREEMENT BETWEEN OWNER AND CONTRACTOR

This "AGREEMENT" is made this \_\_\_\_\_ day of \_\_\_\_\_, in the year 20 by \_\_\_\_\_ and between Valleywise Health, ("Owner"), and (contractor's full legal name) ("Contractor"), located at \_\_\_\_\_ (address), \_\_\_\_\_ (each \_\_\_\_\_ a \_\_\_\_\_ "Party" or collectively the "Parties"). The terms of this Agreement are to be construed consistently with the other Contract Documents enumerated in Article 2 of this Agreement.

In consideration of the mutual promises of the parties, the Owner and the Contractor agree as set forth herein:

### ARTICLE 1 SCOPE OF WORK

1.1 The Contractor shall perform all needed services and furnish all labor, materials, equipment, tools, supplies and other items necessary to satisfactorily complete all work, deliverables, and services in connection with the following project described as: [INSERT] (the "Project"), located at the following site: various locations at Valleywise Health, in strict accordance with the Construction Documents, to be prepared by a registered design professional ("Design Professional" or "DP"), and all other Contract Documents (collectively "Scope of Work, "Project Work" or "the Work").

### ARTICLE 2 CONTRACT DOCUMENTS

2.1 The "Contract Documents" are comprised of the following. In the event of a conflict in the Contract Documents, the Contract Documents will be applied in the following order of precedence:

- a) This Agreement with all Exhibits and Attachments,
- b) Job Orders as issued for specific projects, as subsequently modified by any Change Orders or Amendments, if any.
- c) VALLEYWISE HEALTH Design Guidelines and Technical Standard, current as of the date of each issued project-specific Job Order,
- d) Each project-specific Job Order's Plans and Specifications ("Construction Documents") as subsequently modified by any addenda,
- e) Owner's Request for Proposal ("RFQ") including all Addenda, Exhibits and Clarifications.
- f) The Contractor's proposal submission, as required by the RFP, including any clarifications and revisions of the submission.
- g) Owner's Request for Qualifications ("RFQ") including all Addenda, Exhibits and Clarifications.

- h) The Contractor's qualifications submission, as required by the RFQ, including any clarifications and revisions of the submission.
- i) The following supplemental documents:
  - i. Performance Bond per A.R.S. §34-609, for each project-specific Job Order project,
  - ii. Payment Bond per A.R.S. §34-609, for each project-specific Job Order project,
  - iii. Certificates of Insurance: General Liability, Workers Compensation, Automobile Liability and Builder's Risk, for each project-specific Job Order,
  - iv. List of Subcontractors, provided at award of each project-specific Job Order,
  - v. Notification and Confirmation of Asbestos/Lead/PCB Containing Building Material on the VALLEYWISE HEALTH Campus, for each awarded project-specific Job Order,
  - vi. Construction Permit for each awarded project-specific Job Order, as applicable,
- j) The following Documents Files:
- k) Any other Contract Documents as separately identified on each awarded Job Order, if any Construction Permit for each awarded project-specific Job Order, as applicable

### **ARTICLE 3            INTERPRETATION AND INTENT**

- 3.1**    The Contract Documents are complementary and must be interpreted in harmony so as to avoid conflict or ambiguity, with words and phrases interpreted consistent with construction and design industry standards.
- 3.2**    Terms, words and phrases used in the Contract Documents shall have the meanings as defined in the– Contractor General Conditions” or if not specifically defined, their ordinary and common meaning.
- 3.3**    The Contract Documents form the entire Agreement between Owner and Contractor and by incorporation herein are as fully binding on the parties as if set forth herein. No oral representations or other agreements have been made by the parties except as specifically stated in the Contract Documents.
- 3.4**    Generally, the Drawings indicate dimensions, positions and details of construction; the Specifications establish criteria and quality for materials and standards for workmanship. All Work shall be performed in a workmanlike manner and all materials used shall be new and of the highest quality and of the type best adapted to their purpose unless otherwise specified.

- 3.5** The Agreement may only be changed by written modifications, and the Contractor understands and agrees that if the Contractor proceeds with any work upon verbal request only, Contractor is agreeing by his conduct that such work, or change in the work, constitutes a minor change.
- 3.6** The intent of the Contract Documents is to include all items and services necessary for the proper execution and completion of the Work. The Contract Documents are complementary, and what is required by any one shall be as binding as if required by all. Work not covered in the Contract Documents but deemed necessary for the proper completion of the Work by the Design Professional will be required of Contractor unless it is inconsistent with the Contract Documents or is not reasonably inferable therefrom as being necessary to produce the intended results. Words and abbreviations, which have well known technical or trade meanings, are used in the Contract Documents in accordance with such recognized meanings.

#### **ARTICLE 4 OWNERSHIP OF DOCUMENTS**

- 4.1** The Owner, through this Agreement with the Contractor or its separate agreement(s) with the Design Professional, has and shall continue to have ownership of all drawings, specifications, and other documents and electronic data furnished by Design Professional. Minor design services may be required for some Job Orders that require design services the Contractor shall seek the services of an Arizona registered/licensed professional to prepare plans for permitting.
- 4.2** The Owner shall also have ownership of documents or electronic data similar to those described in Article 4.1 above created by or in the possession of Contractor as well as any estimates, schedules, value engineering submissions, or other work product or deliverable furnished by Contractor to Owner.

#### **ARTICLE 5 CONTRACT TIME**

- 5.1** Owner and Contractor mutually agree that time is of the essence with respect to the dates and times set forth in the Contract Documents. Contractor understands that the time(s) for completion(s) set forth in these documents are essential to the Owner and a material consideration for this Agreement.
- 5.2** The Work and Contract Time shall commence only if and when directed in written Notice to Proceed signed by the Owner, unless the Parties mutually agree otherwise in writing.

- 5.3** This Agreement shall be in effect for the time period [INSERT] through [INSERT], or the completion date of Construction Services to be rendered under this Agreement, whichever is later. Provided however, the Owner reserves the sole right to terminate this Agreement at any time and offer a new agreement to the Contractor, utilizing the Contractor's RFP submittal resulting from the [INSERT RFP DESCRIPTION].
- 5.4 Substantial Completion.** Substantial Completion of the Work (the Substantial Completion Date), as defined herein, shall be achieved no later than the date identified on each issued project-specific Job Order, subject to adjustments in accordance with the Contract Documents by amendment or change order.
- 5.4.1** Interim milestones and/or Substantial Completion of identified portions or phases of the Work shall be achieved as identified on each issued project-specific Job Order, subject to adjustments in accordance with the Contract Documents.
- 5.5 Final Completion.** Final Completion of the Work (the Final Completion Date), as defined herein, shall be achieved no later than the date identified on each issued project-specific Job Order, subject to adjustments in accordance with the Contract Documents by amendment or change order.
- 5.6 Liquidated Damages.** Contractor understands and acknowledges that if Substantial Completion is not achieved by the Substantial Completion Date, Owner will suffer damages which are difficult to accurately quantify and ascertain. The Contractor agrees that if the Contractor should fail to achieve Substantial Completion by the date set forth in Article 5.4, as extended by any Change Orders, the Contractor agrees to pay and will pay Owner, in addition to all other sums the Contractor may be obligated to pay pursuant to the Contract Documents, the sum identified in each project-specific Job Order as liquidated damages for each calendar day that Substantial Completion extends beyond the scheduled Substantial Completion Date. In addition, if Final Completion is not attained within the time period defined by Article 5.5 above, Contractor shall pay Owner the sum identified in each project-specific Job Order as additional liquidated damages for each calendar day that Final Completion extends beyond the required date. The liquidated damages provided for herein are the Parties' best estimate of Owner's damages for the failure to complete the Project within the time periods required by this Agreement and are not a penalty. Payment of liquidated damages shall be in lieu of all liability for any and all extra costs, losses, expenses, claims, penalties and any other damages, whether special or consequential, and of whatsoever nature incurred by Owner which are occasioned by any delay in Contractor achieving Substantial Completion or Final Completion on or after the established dates.

These sums for Substantial Completion liquidated damages and Final Completion liquidated damages may be withheld from the balance of the Contract Price as it becomes due. Should liquidated damages exceed the Contract Price due or to become due, then the Contractor shall pay the Owner the difference within three (3) days of receipt of written demand.

## **ARTICLE 6 CONTRACT PRICE**

**6.1** Subject to increases and decreases for project-specific Job Order Change Orders in accordance with the Contract Documents, the Owner shall pay to the Contractor a Contract Price as identified in each project-specific Job Order, in progress payments as provided in the Contract Documents, not to exceed \$1,000,000.00 per project-specific Job Order (VALLEYWISE HEALTH Procurement Code HS-503 (A) (6)).

## **ARTICLE 7 PROCEDURE FOR PAYMENT**

**7.1 Progress Payments.** Contractor shall separately submit to Owner on the last business day of each month Contractor's Application for Payment, for each project-specific Job Order, based on the percentage of Work completed as agreed to by the Owner, in accordance with Contractor General Conditions".

**7.2 Record Keeping and Finance Controls.** With respect to all Work performed by Contractor, its Subcontractors and Consultants under this Agreement, the Contractor, its Subcontractors and any Consultants, shall keep full and detailed accounts and exercise such controls as may be necessary for proper financial management, using accounting and control systems in accordance with generally accepted accounting principles, and subject to approval by the Owner. During performance of the Work and for five (5) years after Final Payment, the Contractor shall retain and shall also require all Subcontractors and any Consultants to retain for review and/or audit by the Owner all correspondence, meeting minutes, memoranda, electronic media, books, accounts, reports, files, time cards, material invoices, payrolls, and evidence of all communications, direct and indirect costs and all other matter related to the Work. Upon request by the Owner, a legible copy or the original of any or all such records shall be produced by the Contractor at any time during or after the Work as the Owner may request. The Contractor shall submit to the Owner upon request all payrolls, reports, estimates, records and any other data concerning Work performed or to be performed and concerning materials supplied or to be supplied, as well as Subcontractor or any Consultant payment applications or invoices and such Subcontractor's or any Consultant's progress payment checks. The requirements of this Article shall be provided for in all contracts between the Contractor and its Subcontractors and any Consultants employed by the Contractor.

## **ARTICLE 8 TERMINATION FOR CONVENIENCE**

**8.1** This Agreement may be terminated for the convenience of Owner as provided for in Section 12.1 of the – Contractor General Conditions”.

## **ARTICLE 9 REPRESENTATIVES OF THE PARTIES; AUTHORITY**

### **9.1 Owner’s Representatives.**

**9.1.1** Owner designates [INSERT], as its Senior Representative (“Owner’s Senior Representative”), which individual has the authority and responsibility set forth in the Contract Documents, including the authority and responsibility for avoiding and resolving disputes under Section 11 of the– Contractor General Conditions”.

**9.1.2** Owner designates To Be Identified in each project-specific Job Order, as its Project Management Representative (“Project Manager” or “Representative”), which individual has the authority and responsibility set forth in the Contract Documents.

### **9.2 Contractor’s Representatives.**

**9.2.1** Contractor designates (name, title, company name and address – or To Be Identified in each project-specific Job Order), as its Senior Representative (“Contractor’s Senior Representative”), which individual has the authority and responsibility set forth in the Contract Documents, including the authority and responsibility for avoiding and resolving disputes under Section 11 of the– Contractor General Conditions”.

**9.2.2** Contractor designates (To Be Identified in each project-specific Job Order), as its Project Management Representative (“Representative”), which individual has the authority and responsibility set forth in the Contract Documents.

**9.2.3** Contractor designates (To Be Identified in each project-specific Job Order), as its “Construction Superintendent”, which individual has the authority and responsibility set forth in the Contract Documents.

**9.2.4** Contractor’s Representatives and Construction Superintendent, as approved by the Owner, shall not be replaced without the Owner’s prior written approval.

**9.2.5** Contractor warrants and shall ensure that only representatives who are authorized to legally bond Contractor will sign documents associated with this Agreement.



**ARTICLE 10 BONDS AND INSURANCE**

**10.1** Prior to, and as a condition for the execution of each project-specific Job Order, the Contractor to perform Work, Contractor shall procure, deliver and maintain Performance and Payment Bonds and insurance coverage as provided in Section 14.28 of the– Contractor General Conditions” and the RFQ.

**ARTICLE 11 SUPPLEMENTAL INFORMATION**

**11.1** This Agreement constitutes the complete and integrated agreement between the Owner and the Contractor, and it supersedes all prior negotiations, representations or agreements, either written or oral.

**11.2** IN WITNESS WHEREOF, the parties hereto have executed this Agreement in two (2) duplicate originals, any one of which shall be adequate proof of this Agreement, as of the date written above.

**CONTRACTOR:**

**Contractor Company Name**

By Its Authorized Representative

**OWNER:**

Valleywise Health

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Printed Name)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Printed Name)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Date)