

ATTACHMENT 4
PROGRESSIVE DESIGN-BUILD AGREEMENT (SAMPLE)

This **DESIGN-BUILD AGREEMENT** (“Agreement”) is entered into this **XXth** day of **XXXX**, 2026 (“Agreement Date”) by and between the Orange County Mosquito and Vector Control District (“Owner”) and **XXXX** (“Design-Builder”). In consideration of the mutual covenants and obligations contained herein, Owner and Design-Builder hereby agree as follows:

WITNESSETH:

WHEREAS, Owner is a California special district dedicated to protecting public health by controlling rats, flies, mosquitoes, Red Imported Fire Ants and other vector-related problems;

WHEREAS, Owner intends to design, construct and operate a comprehensive redevelopment of its existing campus to address growing operational and programmatic needs, including expanded laboratory facilities, modernized administrative space, and improved parking capacity (the “Project”);

WHEREAS, The Project will prioritize improved site circulation and operational flow, ensuring seamless interaction between laboratory, field, and administrative functions;

WHEREAS, Owner must remain fully operational throughout construction and careful phasing and operational continuity are central to the Project’s planning and execution. Where feasible, existing buildings will be retained and integrated into the new design, allowing Owner to stretch capital dollars and focus new investment on the highest-impact improvements;

WHEREAS, Owner has determined that its interests are best-served by delivering the Project using the progressive design-build delivery model pursuant to Public Contract Code Section 22185, et seq.;

WHEREAS, under Public Contract Code Section 22185, et seq., the progressive design-build process results in a public entity contracting with a design-builder to perform the following sequential phases of services:

(a) Phase 1 services, whereby the design-builder will: (1) perform programmatic, design and other preliminary services to help the public entity determine the scope, price and schedule of the project; and (2) prepare and submit to the public entity a Phase 2 Proposal that will, among other things, provide a guaranteed maximum price for the project; and

(b) Phase 2 services, whereby the design-builder will complete the project design, construct the project in accordance with such design, and perform any other required tasks under the design-build agreement;

WHEREAS, on or about **XXXX**, Owner issued a Request for Qualifications and Proposal for Design Build Services (“RFQ/RFP”) soliciting interested parties to submit a Statement of Qualifications (“SOQ”) and Proposal to serve as the design-builder for the Project;

WHEREAS, on or about **XXXX**, Design-Builder submitted its SOQ and Proposal (“Design-Builder’s Proposal”) in response to the RFQ/RFP;

WHEREAS, on or about XXXX, Owner notified Design-Builder that it was the successful respondent; and

WHEREAS, on or about XXXX, Owner, after negotiating the commercial terms for Design-Builder's performance of the Phase 1 Services, notified Design-Builder that it was awarded this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and obligations contained herein, Owner and Design-Builder hereby agree as follows:

Article 1 **Scope of Work**

1.1 Scope of Work. Design-Builder shall perform the Work, as defined in the General Conditions of Contract. For ease of reference, the Work is generally categorized as: (a) Phase 1 Services; and (b) Phase 2 Services.

1.2 Phase 1 Services.

1.2.1 General. Design-Builder shall provide the Phase 1 Services specifically described in Exhibit 1.2.1(a) ("Scope of Phase 1 Services"), as may be modified under Article 9 of the General Conditions of Contract. The Phase 1 Services consist generally of: (a) developing the Basis of Design Report based upon Owner's Project Criteria set forth in Exhibit 1.2.1(b) ("Owner's Project Criteria"), as such criteria may be revised by Owner; (b) advancing the approved Basis of Design Report to an approximately 50% level of completion; (c) preparing, submitting, and negotiating the Phase 2 Proposal on an Open-Book Basis and in accordance with Article 5 below; and (d) providing services related to the design, including, but not limited to, permitting activities, cost modeling, scheduling, risk assessment, value engineering, constructability reviews, site surveying, potholing, geotechnical investigations, and developing a Geotechnical Data Report ("GDR") and a Geotechnical Baseline Report ("GBR").

1.2.2 Construction Activities. The Phase 1 Services do not include the performance by Design-Builder of any construction activities at the Site. If Owner and Design-Builder determine that the best interests of the Project would be served by having Design-Builder perform one or more Early Work Packages involving construction activities at the Site, they will proceed in accordance with Section 1.4 below. For the avoidance of doubt, Design-Builder's Site visits and investigations shall not be construed as being construction activities.

1.3 Phase 2 Services. The Phase 2 Services include everything required to be performed by Design-Builder under the Contract Documents other than the Phase 1 Services. Such services generally include: (a) finalizing the Project's design and developing Issued for Construction ("IFC") Documents; (b) procuring all Equipment and Materials for the Project; (c) constructing the Project in accordance with the IFC Documents; (d) performing start-up, commissioning, and testing; (e) providing staff training on the operation and maintenance of the Project; (f) performing acceptance testing; and (g) performing warranty services.

1.4 Early Work Packages. The Parties anticipate that there may be some elements of the Phase 2 Services that are more appropriately undertaken by Design-Builder before the Phase 2 Amendment Date ("Early Work Packages"). Owner shall have the sole discretion as to whether to consider and/or authorize

an Early Work Package. If Owner authorizes Design-Builder to prepare a commercial proposal for an Early Work Package, the Parties will work together in good faith to develop the specific process for doing so, with the understanding that the process is intended to generally follow the submittal and negotiation process set forth for the Phase 2 Proposal. Each Early Work Package will be contracted through an amendment to this Agreement, which amendment shall set forth all commercial terms specific to that Early Work Package. For the avoidance of doubt, Early Work Packages are considered part of the Phase 2 Services.

1.5 Owner-Furnished Information.

1.5.1 Status of Owner-Furnished Information. Except as set forth in Section 1.5.2 below, Owner makes no representation or warranty as to the accuracy, completeness, or sufficiency of any Owner-Furnished Information, which information is set forth in Exhibit 1.5.1 (“Owner-Furnished Information”). Design-Builder shall, as part of the Phase 1 Services, carefully study all Owner-Furnished Information and independently verify and confirm the accuracy, completeness, and sufficiency of any Owner-Furnished Information that will be used in performing the Work.

1.5.2 Status of Designated Owner-Furnished Information. Notwithstanding Section 1.5.1 above, Design-Builder shall be entitled to reasonably rely upon the accuracy of Owner-Furnished Information set forth in Exhibit 1.5.2 (“Designated Owner-Furnished Information”) in the performance of its work. Owner does not represent that the Designated Owner-Furnished Information is complete or sufficient for purposes of Design-Builder’s performance of the Work. Design-Builder shall, as part of the Phase 1 Services, be responsible for identifying to Owner what, if any, information is required in addition to the Designated Owner-Furnished Information to develop a complete and sufficient design for the Project, and shall so advise Owner of this during the performance of its Phase 1 Services.

1.5.3 Discovery of Material Inaccuracies. If Design-Builder discovers any material inaccuracies in Owner-Furnished Information (including the Designated Owner-Furnished Information), it shall promptly report such discovery in writing to Owner. The Parties will meet and confer on how to address such material inaccuracies.

1.6 Project Kick-Off Meeting. The Parties will meet within seven (7) days after the Phase 1 Notice to Proceed (“NTP”) to discuss issues affecting the administration of this Agreement, including the procurement of any outstanding Design Consultants, processes relating to submittals and payment, the potential for Early Work Packages, and other matters that will facilitate the ability of the Parties to perform their obligations under this Agreement.

Article 2

Contract Documents

2.1 Contract Documents. The Contract Documents are comprised of the following:

- (a) This Agreement, including all Exhibits other than Exhibit 1.5.1 (“Owner-Furnished Information”);
- (b) The General Conditions of Contract between Owner and Design-Builder (“General Conditions of Contract”); and

(c) The following, which shall be designated, completed, delivered, prepared, or issued after the Agreement Date, and are not attached hereto:

- (1) All written amendments to the Contract Documents, Change Orders, Minor Changes, and Work Change Directives;
- (2) The Basis of Design Report;
- (3) The IFC Documents.

2.2 Inconsistencies, Conflicts or Ambiguities.

2.2.1 Intent. The Contract Documents are intended to permit the Parties to complete the Work and all obligations required by the Contract Documents within the Phase 1 Services Compensation, GMP and Contract Times. The Contract Documents are intended to be complementary and interpreted in harmony so as to avoid conflict, with words and phrases interpreted in a manner consistent with construction and design industry standards. In the event of inconsistencies, conflicts or ambiguities between or among the Contract Documents are discovered, Owner and Design-Builder shall attempt to resolve such ambiguities, conflicts or inconsistencies informally. Requirements contained in one component of the Contract Documents and not contained in another component of the Contract Documents shall not be deemed an inconsistency, conflict or ambiguity.

2.2.2 Order of Precedence of the Contract Documents. The following order of precedence shall apply in the case of direct, irresolvable conflicts between or among Contract Documents:

- (a) All written amendments to the Contract Documents issued after the Phase 2 Amendment Date.
- (b) Change Orders, Minor Changes, and Work Change Directives issued after the Phase 2 Amendment Date.
- (c) The Phase 2 Amendment and all exhibits, other than the Phase 2 Proposal Design Documents.
- (d) All written amendments to the Contract Documents, Change Orders, Minor Changes and Work Change Directives issued after the Agreement Date and before the Phase 2 Amendment Date.
- (e) Exhibit 14.12 (“Funding Agreement Requirements”).
- (f) This Agreement, including all Exhibits except: (i) Exhibit 1.2.1(b) (“Owner’s Project Criteria; (ii) Exhibit 1.5.1 (“Owner-Furnished Information”); (iii) Exhibit 1.5.2 (“Designated Owner-Furnished Information”); (iv) Exhibit 14.4 (“Elements of Design-Builder’s RFP Proposal”); and (v) (Exhibit 14.12 (“Funding Agreement Requirements”).
- (g) General Conditions of Contract.
- (h) The IFC Documents.

- (i) Exhibit 1.2.1(b) (“Owner’s Project Criteria”).
- (j) The Phase 2 Proposal Design Documents.
- (k) The Basis of Design Report.
- (l) Exhibit 1.5.2 (“Designated Owner-Furnished Information”).
- (m) Exhibit 14.4 (“Elements of Design-Builder’s RFP Proposal”).

2.3 Amending the Contract Documents. The Contract Documents may only be amended, modified, or supplemented through a written amendment executed by the Parties (including, but not limited to, the Phase 2 Amendment and any Early Work Package Amendment) or a Change Order, Minor Change, and Work Change Directive issued in accordance with Article 9 of the General Conditions of Contract.

2.4 Owner-Furnished Information. For the avoidance of doubt, except for the Designated Owner-Furnished Information, nothing contained in Owner-Furnished Information is to be construed as being a Contract Document.

2.5 Defined Terms. Terms used in this Agreement will have the meanings indicated in the General Conditions of Contract.

2.6 Entire Agreement. This Agreement represents the entire agreement between Owner and Design-Builder relating to the Project and supersedes all prior negotiations, representations, or agreements.

Article 3 **Contract Times**

3.1 Date of Commencement.

3.1.1 Phase 1 Services. Design-Builder shall commence the Phase 1 Services upon Design-Builder’s receipt of Owner’s Notice to Proceed with Phase 1 Services (“Phase 1 NTP”). Owner will issue to Design-Builder a Phase 1 NTP within **seven (7) days** after the Agreement Date, unless the Parties mutually agree otherwise in writing.

3.1.2 Phase 2 Services. Design-Builder shall commence the Phase 2 Services upon Design-Builder’s receipt of Owner’s Notice to Proceed with Phase 2 Services “Phase 2 NTP”). Owner will issue to Design-Builder a Phase 2 NTP within **seven (7) days** after the Phase 2 Amendment Date, unless the Parties mutually agree otherwise in writing. Notwithstanding anything to the contrary in the Contract Documents, Owner’s issuance of a Phase 2 NTP is conditioned upon Design-Builder furnishing Owner with executed Performance and Labor and Material Payment Bonds, as required by Article 5 of the General Conditions of Contract.

3.2 Schedule for Performance of Phase 1 Services.

3.2.1 Proposed Phase 1 Services Schedule. Within **thirty (30)** days from the Phase 1 NTP, Design-Builder shall submit to Owner, for its review and approval, a proposed Phase 1 Services Schedule that includes, among other things: (a) the order in which Design-Builder proposes to carry out the

Phase 1 Services; and (b) the times when submissions and approvals or consents by Owner are required, *provided, however*, that such times shall be no less than **twenty-one (21) days**. The proposed Phase 1 Services Schedule shall be derived from the Initial 90-Day Schedule set forth in Exhibit 3.2.1 (“Initial 90-Day Schedule”).

3.2.2 Monitoring Performance. The Initial 90-Day Schedule shall be the basis for monitoring Design-Builder’s performance of the Phase 1 Services until such time as the Phase 1 Services Schedule has been approved by Owner. Until the approval of the Phase 1 Services Schedule, Design-Builder shall provide monthly updates of the Initial 90-Day Schedule depicting the actual progress of its performance of the Phase 1 Services as compared to the projected progress of the work. Upon approval of the Phase 1 Services Schedule, Design-Builder shall provide monthly updates depicting the actual progress of its performance of the Phase 1 Services as compared to the projected progress of the work.

3.2.3 Completion of Phase 1 Services. Design-Builder shall be deemed to have completed its obligations to perform the Phase 1 Services under this Agreement upon the earlier to occur of: (a) execution by Owner and Design-Builder of a Phase 2 Amendment; or (b) Owner’s exercise of its right to terminate Design-Builder for convenience under Sections 5.5(c) and 11.1.1 below; or (c) Design-Builder’s exercise of its rights under Section 5.6 below to declare that Owner has constructively terminated Design-Builder for convenience.

3.3 Schedule for Performance of Phase 2 Services.

3.3.1 Scheduled Substantial Completion Date. Design-Builder shall substantially complete the Work no later than the date set forth in the Phase 2 Amendment (“Scheduled Substantial Completion Date”).

3.3.2 Scheduled Final Completion Date. Design-Builder shall achieve Final Completion no later than sixty (60) days from Substantial Completion (“Scheduled Final Completion Date”).

3.3.3 Contract Time(s). The Scheduled Substantial Completion Date and the Scheduled Final Completion Date are deemed to be the Contract Time(s). The Contract Time(s) shall be subject to adjustment in accordance with the General Conditions of Contract.

3.3.4 Time is of the Essence. Owner and Design-Builder mutually agree that the Scheduled Substantial Completion Date and Scheduled Final Completion Date, individually and collectively, are of the essence of this Agreement.

3.4 Delay Liquidated Damages. If Design-Builder does not achieve Substantial Completion and/or Final Completion on or before the applicable Contract Time, Owner will suffer damages which are difficult to determine and accurately specify. To compensate Owner for such damages, Design-Builder hereby agrees to pay Owner Delay Liquidated Damages as follows:

3.4.1 Substantial Completion. If the Substantial Completion Date has not been achieved by the Scheduled Substantial Completion Date, then Design-Builder shall pay to Owner Delay Liquidated Damages in the daily amount set forth in the Phase 2 Amendment for each day between the Scheduled Substantial Completion Date and the Substantial Completion Date.

3.4.2. Final Completion. If the Final Completion Date has not been achieved by the

Scheduled Final Completion Date, Designer-Builder shall pay to Owner Delay Liquidated Damages in the daily amount set forth in the Phase 2 Amendment for each day between the Scheduled Final Completion Date and the Final Completion Date.

3.5 Delay Liquidated Damages Not Penalty. The Parties acknowledge, recognize, and agree on the following:

(a) that because of the unique nature of the Project, it is difficult or impossible to determine with precision the amount of damages that would or might be incurred by Owner as a result of Design-Builder's failure to complete the Work on or before the applicable Contract Times;

(b) that any sums which would be payable under this Agreement as Delay Liquidated Damages are in the nature of liquidated damages, and not a penalty, and are fair and reasonable, and such payment represents a reasonable estimate of fair compensation for the losses that may reasonably be anticipated from such failure;

(c) that any sums which would be payable under this Agreement as Delay Liquidated Damages shall be in lieu of all liability for any and all extra costs, losses, expenses, claims, penalties and any other damages, whether direct, indirect, special or consequential, and of whatsoever nature incurred by Owner which are occasioned by any delay in achieving the applicable Contract Time(s); and

(d) that, in recognition of the acknowledgments above, Design-Builder is expressly estopped from arguing, and waives any rights it may have to argue, that Delay Liquidated Damages are a penalty and that they are not enforceable.

For the avoidance of doubt, and notwithstanding anything to the contrary in Paragraph (c) above, Delay Liquidated Damages are not intended to excuse Design-Builder from liability for any other breach of its obligations under the Contract Documents.

3.6 Owner's Rights to Offset. In addition to any of its other rights under the Contract Documents or as a matter of law, Owner shall have the right to: (a) deduct the Delay Liquidated Damages established under Section 3.5 above from any monies unpaid, otherwise due, or to become due, to Design-Builder; (b) to demand and receive prompt payment from Design-Builder of such Delay Liquidated Damages; and (c) initiate applicable dispute resolution procedures under the General Conditions of Contract to recover such Delay Liquidated Damages. The deductions of such Delay Liquidated Damages from any monies unpaid, otherwise due, or to become due shall be in addition to retainage under the Contract Documents. Owner also has the discretion to allow Delay Liquidated Damages to accrue without collecting and by doing so does not waive any rights to collect them at a later time.

Article 4

Contract Price and GMP

4.1 Contract Price.

4.1.1 Contract Price Defined. Owner shall pay Design-Builder in accordance with Article 6 of the General Conditions of Contract a contract price (“Contract Price”) equal to the sum of the following:

- (a) The Phase 1 Services Compensation, as established by Exhibit 4.1.1 (“Phase 1 Services Compensation”);
- (b) The Cost of the Work, as defined in Section 6.1 below;
- (c) Design-Builder’s General Conditions, as defined in Section 6.2 below; and
- (d) Design-Builder’s Fee, as defined in Section 4.3 below.

4.1.2 Conditions Applicable to Contract Price. For the avoidance of doubt, the Parties agree that the following conditions are applicable to Owner’s payment of the Contract Price.

- (a) Sections 4.1.1(b) through 4.1.1(d) above do not apply to the Phase 1 Services, and only apply to the Phase 2 Services;
- (b) Until such time as the Phase 2 Amendment (or, if applicable, an Early Work Package Amendment) has been executed and a Phase 2 NTP (or, if applicable, an Early Work Package NTP) has been issued by Owner, the only financial obligation of Owner to Design-Builder shall be the Phase 1 Services Compensation; and
- (c) Owner’s obligation to pay the Contract Price is subject to the GMP.

4.2 Guaranteed Maximum Price (“GMP”). The GMP is the monetary value designated as the “Guaranteed Maximum Price” and/or “GMP” in the Phase 2 Amendment, as such value may be adjusted in accordance with Article 9 of the General Conditions of Contract. Design-Builder guarantees that it shall not exceed the GMP, and that it will be responsible for paying all costs of completing the Work which exceed the GMP. The GMP is deemed to include all sales, use, consumer and other taxes mandated by applicable Legal Requirements. Design-Builder does not guarantee any specific line item provided as part of the GMP.

4.3 Design-Builder’s Fee.

4.3.1 Amount and Basis of Fee. Design-Builder’s Fee is **XXX** percent (**XX**%), which is that percentage fee proposed in Design-Builder’s Proposal. Design-Builder’s Fee will be used in the negotiation of the Phase 2 Proposal and, if applicable, Early Work Package proposals. Design-Builder’s Fee represents Design-Builder’s compensation for profit and Non-Reimbursable Costs.

4.3.2 Application of Design-Builder’s Fee. In determining the GMP under Article 5 below, Design-Builder’s Fee shall be calculated by applying Design-Builder’s Fee to the sum of: (a) the estimated Cost of the Work; and (b) the estimated Design-Builder’s General Conditions, *provided, however*, that there shall be no Design-Builder’s Fee applied to: (i) Design-Builder’s premiums for the Performance Bond, Labor and Material Payment Bond **and the Builder’s Risk Insurance**; (ii) Contingency; and (iii) any

Allowance Payment Item. Once the Design-Builder's Fee has been established, it shall then be treated as a fixed price, subject to adjustment as set forth in Section 4.3.3 below.

4.3.3 Adjustment of Design-Builder's Fee. Design-Builder's Fee will be adjusted as follows:

(a) For additive Change Orders, including additive Change Orders arising from both additive and deductive items, Design-Builder shall receive a Fee not to exceed **XX%** of the additional Costs of the Work incurred for that Change Order.

(b) For Costs of the Work that are drawn from the Contingency or incurred for an Allowance Payment Item, Design-Builder shall receive a Design-Builder's Fee not to exceed **XX%** of such Costs of the Work.

(c) For deductive Change Orders, including deductive Change Orders arising from both additive and deductive items, an amount equal to **XX%** shall be applied to the net reduction in the Costs of the Work for such Change Orders, which amount will account for a reduction associated with Design-Builder's Fee.

4.4 Allowance Payment Items and Allowance Payment Values.

4.4.1 Generally. Any and all Allowance Payment Items, as well as their corresponding Allowance Payment Values, will be set forth in the Phase 2 Amendment. Design-Builder and Owner will work together during Design-Builder's development of a Phase 2 Proposal to review potential Allowance Payment Items based on information then available, and then to determine that reasonable Allowance Payment Values for such Allowance Payment Items.

4.4.2 Owner's Authorization. No work shall be performed on any Allowance Payment Item without Design-Builder first obtaining in writing advanced authorization to proceed from Owner. Owner agrees not to unreasonably withhold or delay its consent to any Allowance Payment Item which would impact Design-Builder's progress on the Work.

4.4.3 Potential Adjustment of GMP. If the actual costs for an Allowance Payment Item differ from the stated Allowance Payment Value, such difference shall be reflected in a Change Order that adjusts the GMP by such difference. The Allowance Payment Value for an Allowance Payment Item includes the direct cost of labor, materials, equipment, transportation, taxes and insurance associated with the applicable Allowance Payment Item. All other costs, including design fees, Design-Builder's General Conditions, and Design-Builder's Fee, are deemed to be included in other components of the GMP and are not subject to adjustment, regardless of the actual amount of the Allowance Item.

Article 5

Phase 2 Proposal

5.1 Submission of Phase 2 Proposal.

5.1.1 Format and Documentation. Upon written authorization by Owner, Design-Builder shall submit to Owner a Phase 2 Proposal for the Phase 2 Services. The format of the Phase 2 Proposal,

including the format of supporting documentation and line items of the Work, shall be initially developed by Design-Builder and provided to Owner for its review and approval. At a minimum, the supporting documentation will include a complete line item cost estimate indicating the itemized costs that comprise the GMP. The format of the Phase 2 Proposal shall be agreed upon at least sixty (60) days prior to the submittal of such proposal.

5.1.2 Phase 2 Proposal Design Documents. The Parties acknowledge that the Phase 2 Proposal Design Documents to be included in the Phase 2 Proposal are not fully completed Issued for Construction Documents and that such documents will be further developed after the Phase 2 Amendment Date. The Phase 2 Proposal, including the GMP itself, represents Design-Builder's offer to fully complete the Project, including, without limitation, its offer to provide and construct, at no increase in the GMP, items that are not shown on the Phase 2 Proposal Design Documents but which are a logical development of the design intent reflected in the Phase 2 Proposal Design Documents.

5.2 Contents of Phase 2 Proposal. The Phase 2 Proposal shall include the following, unless the Parties mutually agree otherwise:

- (a) A proposed GMP, which shall be the sum of:
 - (1) The Phase 1 Services Compensation;
 - (2) The estimated Cost of the Work, inclusive of the Contingency defined in Section 5.7 below;
 - (3) Design-Builder's General Conditions; and
 - (4) Design-Builder's Fee.

The proposed GMP shall be supported by a detailed cost estimate organized by trade categories, including any Allowance Payment Items and Contingency.

(b) The Phase 2 Proposal Design Documents, with such documents to be listed and attached to the Phase 2 Proposal;

(c) A list of the assumptions and clarifications made by Design-Builder in the preparation of the Phase 2 Proposal, which list is intended to supplement the information contained in the Phase 2 Proposal Design Documents, and shall include any Geotechnical Baseline Report ("GBR");

(d) The Scheduled Substantial Completion Date upon which the proposed GMP is based, and a schedule upon which the Scheduled Substantial Completion Date is based ("Baseline Schedule"), developed in accordance with Section 2.1.2 of the General Conditions of Contract;

(e) A schedule of submittals listing each required submittal and the times for submitting, reviewing and processing each submittal;

(f) A schedule of values for all of the Work which will include quantities and prices of items which when added together equal the GMP and subdivides the Work into component parts

in sufficient detail to serve as the basis for progress payments during performance of the Work;

(g) A cash flow projection estimating that portion of the GMP to be due during each month of performance;

(h) If applicable, a list of Allowance Payment Items, Allowance Payment Values, and a statement of their basis;

(i) If applicable, a schedule of alternate prices;

(j) If applicable, a schedule of unit prices;

(k) If applicable, a statement of Additional Services which may be performed but which are not included in the GMP and which, if performed, shall be the basis for an adjustment to the GMP and/or Scheduled Substantial Completion Date;

(l) A subcontracting plan for the Phase 2 Services which will, among other things, set forth a list of Subcontractors and Suppliers whose bids/proposals have been accepted by Owner;

(m) An updated letter from its surety or sureties verifying that Design-Builder has bonding capacity for the Performance Bond and Labor and Material Payment Bond in the amount of the GMP;

(n) An updated list of Key Personnel and Design-Builder's Project Organizational Chart;

(o) A specimen Builder's Risk Insurance policy with all appropriate attachments, sub-limits that has been approved by Owner, and a letter of certification from Design-Builder or Design-Builder's insurance broker confirming that Builder's Risk Insurance in the form of such specimen policy will be placed prior to the commencement of construction;

(p) Identification of any GDR and GBR that will become an exhibit to the Phase 2 Amendment;

(q) Such other information and materials as Owner may reasonably request; and

(r) Confirmation that the Phase 2 Proposal will remain valid during the Phase 2 Proposal Acceptance Period.

5.3 Review and Negotiation of Phase 2 Proposal.

5.3.1 Review Process. After submission of a Phase 2 Proposal under Section 5.2 above, Design-Builder and Owner shall meet to discuss and review such proposal, with the understanding that: (a) all information shall be provided by Design-Builder on an Open-Book Basis; (b) Design-Builder shall provide such information as Owner may reasonably request relative to such proposal; and (c) Design-Builder shall identify and justify any costs that are significantly different than Design-Builder's latest cost model. If Owner has any comments regarding the proposal, or finds any inconsistencies or inaccuracies in the information presented, it shall promptly notify Design-Builder of such comments or findings. If

appropriate, Design-Builder shall, upon receipt of Owner's notice, make appropriate adjustments to the proposal. Design-Builder is also on notice that Owner may, at any time, submit the proposal to either the Owner's Advisor or an independent third party for review and verification.

5.3.2 Negotiation. If Owner determines that there is merit in considering the Phase 2 Proposal, it shall so notify Design-Builder, whereupon the Parties shall negotiate in good faith and attempt to reach agreement on the terms of the proposal.

5.4 Agreement on Phase 2 Proposal. If the Parties reach agreement on the Phase 2 Proposal, as such proposal may be amended by Design-Builder to reflect discussions between the Parties, and Owner's Board of Directors approves such proposal, the Parties will execute the Phase 2 Amendment.

5.5 Failure to Agree upon Phase 2 Proposal. If the Parties are unable to reach an agreement on the Phase 2 Proposal, Owner may:

(a) Continue to evaluate and suggest modifications to the proposal, whereupon, if such modifications are accepted in writing by Design-Builder, then the Parties shall be deemed to have agreed upon the modified proposal, in which case the Parties shall proceed in accordance with Section 5.4 above;

(b) Authorize Design-Builder to continue to advance the design of the Project as an additional service and/or have Design-Builder provide another proposal at a later point in time, which proposal shall comply with this Article 5; or

(c) Exercise its rights to terminate this Agreement for convenience pursuant to Section 11.1.1 below.

5.6 Design-Builder's Rights if Owner Fails to Act. If Owner fails to exercise any of its options under Section 5.5 within, as applicable, the Phase 2 Proposal Acceptance Period, as such period may be extended by mutual agreement of the Parties, Design-Builder may, after giving Owner thirty (30) days written notice of its intention to do so, declare the Phase 2 Proposal null and void. Additionally, Design-Builder may declare that Owner has constructively terminated the Agreement under Section 11.1.1 below, in which case Design-Builder's sole rights and remedies shall be as stated in Section 11.1.2 below.

5.7 Contingency.

5.7.1 General. The Phase 2 Proposal and Phase 2 Amendment will include a contingency line item ("Contingency") as part of the estimated Cost of the Work. The Contingency is available for Design-Builder's exclusive use for unanticipated Costs of the Work that it has incurred that are not the basis for a Change Order under the Contract Documents. By way of example, and not as a limitation, such costs may include: (a) trade buy-out differentials; (b) overtime or acceleration; (c) escalation of materials; (d) correction of defective, damaged or nonconforming Work, including design errors or omissions, however caused; (e) Subcontractor defaults; and (f) deductibles incurred by Design-Builder under the insurance required under Exhibit 14.1 ("Insurance Requirements"), but not to exceed \$25,000 per occurrence. The Contingency is not available to Owner for any reason, including, but not limited to changes in scope or any other item which would enable Design-Builder to increase the GMP under the Contract Documents.

5.7.2 Draws. Design-Builder may draw upon the Contingency by making a written

request to Owner, identifying the reason and amount of the draw, and by obtaining Owner's written approval, which shall not be unreasonably withheld. If Owner approves a draw against the Contingency, Design-Builder shall, in its Payment Applications, show an increase in the relevant line item by the amount drawn and a decrease in the line item for the Contingency.

5.7.3 Draws for Subcontractor Default or Insurable Event. Design-Builder agrees that with respect to any expenditure from the Contingency relating to a Subcontractor default or an event for which insurance or bond may provide reimbursement, Design-Builder will in good faith exercise reasonable steps to obtain performance from the Subcontractor and/or recovery from any surety or insurance company. Design-Builder agrees that if Design-Builder is subsequently reimbursed for said costs, then said recovery will be credited back to the Contingency, net of any costs and expenses incurred by Design-Builder in pursuing such recovery.

5.8 Savings.

5.8.1 Definition. If the sum of: (a) the Phase 1 Services Compensation; (b) the actual Cost of the Work; (c) Design-Builder's General Conditions; and (d) Design-Builder's Fee is less than the GMP, as such GMP may have been adjusted over the course of the Project, the difference ("Savings") shall be treated as set forth in the Phase 2 Amendment.

5.8.2 Payment. Savings shall be calculated and paid as part of Final Payment under Section 7.3 hereof, with the understanding that to the extent Design-Builder incurs costs after Final Completion which would have been payable to Design-Builder as a Cost of the Work, the Parties shall recalculate the Savings in light of the costs so incurred.

5.9 Effect and Administration of the GMP. By executing a Phase 2 Amendment, Design-Builder guarantees that Owner's payment obligations shall not exceed the amount of the GMP, and that Design-Builder shall be responsible for paying all costs of completing the Work which exceed the GMP, as the GMP may be adjusted in accordance with the Contract Documents.

Article 6

Cost of the Work

6.1 Cost of the Work. The term "Cost of the Work" shall mean costs reasonably and actually incurred by Design-Builder in the proper performance of the Work. The Cost of the Work shall include only the following:

6.1.1 Wages of design professionals or construction workers directly employed by Design-Builder to perform: (a) design; and (b) construction of the Work at the Site or, with Owner's agreement, at locations off the Site; *provided, however*, that the costs for those employees of Design-Builder performing design services shall be calculated on the basis of prevailing market rates for design professionals performing such services or, if applicable, those rates set forth in Exhibit 4.1.1 ("Phase 1 Services Compensation").

6.1.2 A multiplier applied to the wages of the employees of Design-Builder covered under Section 6.1.1 above as compensation for the costs incurred or customarily paid for employee benefits, project-related bonuses, premiums, taxes, insurance, contributions and assessments

required by law, and/or collective bargaining agreements. The multiplier for Design-Builder's professional, salary-based personnel shall be as included in those rates set forth in Exhibit 4.1.1 ("Phase 1 Services Compensation"). The multiplier for Design-Builder's Phase 2 Services for craft/field, hourly-based and professional, salary based personnel shall be negotiated with the Phase 2 Proposal.

6.1.3 Payments properly made by Design-Builder to Subcontractors and Design Consultants for performance of portions of the Work.

6.1.4 Costs incurred by Design-Builder in repairing or correcting defective, damaged or nonconforming Work (including any warranty or corrective Work performed after Substantial Completion), provided that such Work was beyond the reasonable control of Design-Builder, or caused by the ordinary mistakes or inadvertence, and not the negligence, of Design-Builder or those working by or through Design-Builder, and provided further that no Design-Builder's Fee shall apply to such costs. If the costs associated with such Work are recoverable from insurance, Subcontractors or Design Consultants, Design-Builder shall exercise reasonable commercial efforts to obtain recovery from the appropriate source and provide a credit to Owner if recovery is obtained, net of any costs and expenses reasonably incurred by Design-Builder in pursuing and obtaining such recovery.

6.1.5 Costs, including transportation, inspection, testing, storage and handling, of materials, equipment and supplies incorporated or reasonably used in completing the Work.

6.1.6 Costs (less salvage value) of Equipment and Materials, supplies, temporary facilities, machinery, equipment and hand tools not customarily owned by the workers that are not fully consumed in the performance of the Work and which remain the property of Design-Builder, including the costs of transporting, inspecting, testing, handling, installing, maintaining, dismantling and removing such items.

6.1.7 Rental charges and the costs of transportation, installation, minor repairs and replacements, dismantling and removal of temporary facilities, machinery, equipment and hand tools not customarily owned by the workers, which are provided by Design-Builder at the Site, whether rented from Design-Builder or others, and incurred in the performance of the Work.

6.1.8 Fuel and utility costs incurred in the performance of the Work.

6.1.9 Costs for Governmental Approvals, permits, royalties, licenses, tests, and inspections incurred by the Design-Builder as a requirement of the Contract Documents.

6.1.10 The cost of defending suits or claims for infringement of patent rights arising from the use of a particular design, process, or product required by Owner, paying legal judgments against Design-Builder resulting from such suits or claims, and paying settlements with Owner's consent.

6.1.11 Costs incurred in preventing damage, injury or loss in case of an emergency affecting the safety of persons and property.

6.1.12 Premiums for the Performance Bond, Labor and Material Payment Bond, and Builder's Risk Insurance, *provided, however*, that no Design-Builder's Fee shall apply to such costs.

6.1.13 Sales, use or similar taxes, tariffs, or duties incurred in the performance of the Work.

6.1.14 Other costs reasonably and properly incurred in the performance of the Work to the extent approved in writing by Owner.

6.2 Design-Builder's General Conditions. The term "Design-Builder's General Conditions" shall mean Design-Builder's costs reasonably and actually incurred by Design-Builder for supervisory, construction management and overhead-related items in connection with the proper performance of the Work and which are not covered by the Cost of the Work. Design-Builder's General Conditions shall include only the following:

6.2.1 Base wages or salaries of Design-Builder's supervisory and administrative personnel engaged in the performance of the Work and who are located at the Site or, with Owner's agreement, working at locations off the Site.

6.2.2 A multiplier applied to the wages of the employees of Design-Builder covered under Section 6.2.1 above as compensation for the costs incurred or customarily paid by Design-Builder for employee benefits, project-related bonuses, premiums, taxes, insurance, contributions and assessments required by law, and/or collective bargaining agreements. The multiplier for professional, salary-based on-site personnel shall be negotiated with the Phase 2 Proposal. The multiplier for craft/field, hourly-based on-site personnel shall be negotiated with the Phase 2 Proposal. The multiplier for all off-site personnel shall be negotiated with the Phase 2 Proposal.

6.2.3 Costs of removal of debris and waste from the Site not performed or required to be performed by Subcontractors.

6.2.4 The reasonable costs and expenses incurred in establishing, operating and demobilizing the Site office, including the cost of facsimile transmissions, long distance telephone calls, postage and express delivery charges, telephone service, photocopying, reasonable petty cash expenses.

6.2.5 Vehicles for the transport of persons, such as passenger cars and pick-up trucks, to the extent used by any of Design-Builder's personnel while performing their Project-related responsibilities.

6.3 Non-Reimbursable Costs. The Cost of the Work and Design-Builder's General Conditions shall not include the following:

6.3.1 Salaries and other compensation for Design-Builder personnel stationed at Design-Builder's principal or branch offices, except as expressly provided for in Sections 6.1.1 and 6.2.1 above.

6.3.2 Expenses of Design-Builder's principal office and offices other than the Site office.

6.3.3 Overhead and general expenses, except as expressly provided for in Sections 6.1 and 6.2 above.

6.3.4 Bonuses, profit sharing, thrift or similar plans paid to employees of Design-Builder, whether or not such employee worked on the Project, except as expressly provided for in Sections 6.1.2 and 6.2.2 above.

6.3.5 The cost of Design-Builder's capital used in the performance of the Work.

6.3.6 Insurance premiums incurred or paid by Design-Builder, other than the Builder's Risk insurance.

6.3.7 Corporate and non-Project specific accounting and data processing costs.

6.3.8 Any costs not specifically set forth in Sections 6.1 and 6.2 above.

6.3.9 Costs that would cause the GMP to be exceeded.

6.3.10 Costs and expenses incurred to obtain any Governmental Approval, permit, license, registration, or other approval, or fee or charge incurred, in connection with the general operations of Design-Builder and not required specifically and exclusively for the performance of the Work.

Article 7 **Payment Procedures**

7.1 Phase 1 Services.

7.1.1 Basis for Phase 1 Services Compensation. The basis for the Phase 1 Services Compensation is set forth in Exhibit 4.1.1 ("Phase 1 Services Compensation"), which exhibit includes, among other things, hourly rates and other information associated with pricing associated with the Phase 1 Services, including the pricing of changes to the Phase 1 Services.

7.1.2 Application for Payment for Phase 1 Services. Design-Builder shall submit an application for payment to Owner on the fifth (5th) day of each month, beginning with the first month after the Phase 1 NTP. The application for payment shall be in the form approved by Owner, and shall: (a) identify the services performed during the preceding month; (b) indicate the total amount requested for payment; (c) indicate the total amount paid Design-Builder through the date of the application for payment; and (d) include such other information or documentation as Owner may reasonably require.

7.1.3 Payment by Owner for Phase 1 Services. Owner shall make payment within thirty (30) days after Owner's receipt of each properly submitted and accurate application for payment, less amounts properly withheld under Section 6.3 of the General Conditions of Contract or otherwise.

7.1.4 Retainage. No retainage will be withheld by Owner for payments made to Design-

Builder for Phase 1 Services, *provided, however*, in the event Owner and Design-Builder execute an amendment to this Agreement authorizing Design-Builder to perform an Early Work Package, such amendment will address what, if any, retainage will be withheld on such Early Work Package payments.

7.2 Phase 2 Services.

7.2.1 Application for Payment for Phase 2 Services. Design-Builder shall submit to Owner on the fifth (5th) day of each month, beginning with the first month after the Phase 2 NTP, Applications for Payment in accordance with Article 6 of the General Conditions of Contract.

7.2.2 Payment by Owner for Phase 2 Services. Owner shall make payment within thirty (30) days after Owner's receipt of each properly submitted and accurate Application for Payment in accordance with Article 6 of the General Conditions of Contract, but in each case less the total of payments previously made, and less amounts properly withheld under Section 6.3 of the General Conditions of Contract or otherwise.

7.2.3 Retainage. Owner will withhold retainage in the amount of five percent (5%) on progress payments due Design-Builder. Within thirty (30) days after the Substantial Completion Date, Owner shall release to Design-Builder all retainage, less an amount equal to: (a) two hundred percent (200%) of the reasonable value of all remaining Punch List items as of the Substantial Completion Date; and (b) all other amounts Owner is entitled to withhold pursuant to Section 6.3 of the General Conditions of Contract. Owner shall pay the outstanding retainage at Final Payment, in accordance with Section 6.6 of the General Conditions of Contract.

7.2.4 Security Substitution. In accordance with Public Contract Code Section 22300, and at the expense of Design-Builder, Design-Builder: (a) shall be permitted to substitute securities for any moneys withheld by Owner to ensure performance under the Agreement; and/or (b) request and Owner shall make payment of retainage earned directly to the escrow agent established under Public Contract Code Section 22300. For the avoidance of doubt, all other provisions of Public Contract Code Section 22300 shall be applicable.

7.3 Interest. Payments due and unpaid by Owner to Design-Builder shall bear interest in accordance with Public Contract Code Section 20104.50(b).

7.4 Owner's Rights to Offset Delay Liquidated Damages. Owner shall have the right to withhold Delay Liquidated Damages from any monies unpaid, otherwise due, or to become due, to Design-Builder, to demand and receive payment from Design-Builder of such Delay Liquidated Damages, and to initiate applicable dispute resolution procedures under Article 10 of the General Conditions of Contract to recover such Delay Liquidated Damages. The withholding of such damages from any monies unpaid, otherwise due, or to become due shall be in addition to retainage under the Contract Documents. Owner has the discretion to allow Delay Liquidated Damages to accrue without withholding and by doing so does not waive any rights to withhold them at a later time.

7.5 Retainage Applicable to Subcontractors and Sub-Subcontractors. In accordance with Public Contract Code Section 22172.(4)(b), in: (a) a Subcontract; (b) a contract between a Subcontractor and a Sub-Subcontractor; and (c) a contract between a Design Consultant and a subcontractor, the percentage of the retainage proceeds withheld shall not exceed the percentage specified in this Article 7 applicable to Design-Builder. If Design-Builder provides written notice to any Subcontractor that is not a

member of Design-Builder, before or at the time the bid is requested, that a bond may be required, and Subcontractor subsequently is unable or refuses to furnish a bond to Design-Builder, then Design-Builder may withhold retainage proceeds in excess of the percentage specified in this Agreement from any payment made by Design-Builder to such Subcontractor.

Article 8

Self-Perform Work and Subcontracts

8.1 Self-Perform Work.

8.1.1 General. Self-Perform Work will be performed during both Phase 1 and Phase 2, with the understanding that the specific scope of Self-Perform Work will be determined by mutual agreement of the Parties during Phase 1. Self-Perform Work packages shall either be negotiated or subject to competition, as determined by Owner in its sole and absolute judgment.

8.1.2 Self-Perform Work Subject to Negotiations. If Owner determines that the Self-Perform Work package will be subject to negotiation, Design-Builder shall submit a proposal for such package based upon: (a) the estimated Cost of the Work for such Self-Perform Work, with the entity performing Self-Perform Work pricing its labor on actual wages plus the appropriate multiplier on such wages; and (b) Design-Builder's Fee being applied to such Cost of the Work. For the avoidance of doubt, the entity performing Self-Perform Work shall provide such information as Owner may reasonably request, with the understanding that all information that formed the basis for the applicable estimate will be provided to Owner on an Open-Book Basis. If the Parties are unable to reach an agreement on the proposal, Owner may, in its sole and absolute judgment: (x) withdraw its permission that the applicable Work be deemed Self-Perform Work; or (y) give Design-Builder permission to submit a competitive proposal in accordance with Section 8.1.3 below.

8.1.3 Self-Perform Work Subject to Competition. If Owner determines that the Self-Perform Work package will be subject to competition, Design-Builder shall be allowed to perform such package if: (a) Design-Builder submits its bid or proposal for such package in the same manner as all other Subcontractors; and (b) Owner determines that Design-Builder's bid or proposal provides the best value for Owner. If Design-Builder wishes to submit a bid or proposal for such package, Owner shall have the right to require the submittal of all bids or proposals for such work directly to Owner and/or Owner's Advisor (and not to Design-Builder) for review and evaluation.

8.1.4 Self-Perform Work Performed on Lump Sum Basis. If any of Design-Builder's Self-Perform Work is performed on a lump sum basis, such lump sum shall be treated in the same manner as if the lump sum was performed by a Subcontractor for purposes of determining Cost of the Work. If such Self-Perform Work is performed on a GMP or Cost of the Work basis, it will be paid in accordance with Sections 6.1 and 6.2 above. Except for Self-Perform Work performed under Section 8.1.3 above, the entity performing Self-Perform Work shall provide such information as Owner may reasonably request, with the understanding that all information that formed the basis for the applicable estimate will be provided to Owner on an Open-Book Basis, with all cost information being transparent and based on actual, verifiable costs compliant with Sections 6.1 and 6.2 above.

8.2 Work to Be Performed through Subcontractors.

8.2.1 Fixed-Price Subcontracts. It is contemplated that all first-tier Subcontractors are to be awarded fixed-price Subcontracts, unless expressly authorized otherwise by Owner in writing.

8.2.2 Award of Construction Subcontracts with Value in Excess of One-Half of One Percent (0.50%) of the GMP Allocable for Construction Work. Design-Builder shall be responsible for dividing the Work into suitable bid packages. In accordance with Public Contract Code Section 22172.3, Design-Builder shall award construction Subcontracts with a value exceeding one-half of one percent (0.50%) of the GMP allocable to the construction Work in the following manner:

- (a) Provide public notice of availability of Work to be subcontracted in accordance with the publication requirements applicable to the competitive bidding process of Owner, including a fixed date and time on which qualifications statements, bids, or proposals will be due.
- (b) Establish reasonable qualification criteria and standards.
- (c) Award the Subcontract on a best value basis.

The above-referenced process may include prequalification or short-listing. Subcontractors awarded Subcontracts under this Section 8.2.2 shall be afforded all the protections of the Subletting and Subcontracting Fair Practices Act (Chapter 4 (commencing with Section 4100) of Part 1 of Division 2 of the Public Contract Code).

8.2.3 Award of Other Subcontracts. Any Subcontract that is not covered by Section 8.2.2 above having a value greater than \$250,000 shall be awarded through a low bid, competitive procurement process, unless otherwise expressly authorized by Owner in writing. For such Subcontracts, Design-Builder shall: (a) develop procurement procedures applicable to such Subcontracts that have been approved by Owner; (b) prepare all necessary procurement documents; (c) advertise for bids or proposals and receive bids or proposals; (d) evaluate the bids or proposals in accordance with the selection criteria established in the procurement documents; and (e) recommend a bid or proposal for approval by Owner in accordance with such evaluation. All bids or proposals shall be made available to Owner on request.

8.2.4 Owner and Owner's Advisor Rights to Participate in Procurement Process. Owner and Design-Builder shall meet and confer about the role that Owner anticipates playing during the procurement of Subcontractors. Without limiting any of the foregoing, Design-Builder acknowledges and agrees that Owner and Owner's Advisor shall have the right to: (a) review and comment on all procurement documents; (b) attend any bid or proposal openings; (c) attend any meetings with prospective Subcontractors, including scope review meetings; (d) review all bids, proposals, and other information developed or otherwise resulting from any competitive procurement, including Design-Builder's tabulation, scoring or evaluation materials; and (e) otherwise participate in the negotiation and contract award process. Unless Owner decides otherwise, Design-Builder shall provide Owner, upon award of a Subcontract, with a description of the competitive process undertaken in connection with such Subcontract award, together with copies of all material documents used in connection therewith and agreements resulting therefrom.

8.3 Work to be Performed through Design Consultants.

8.3.1 Owner's Right to Approve all Design Consultants. Owner shall have the right to approve all Design Consultants on the Project, regardless of whether such Design Consultants were identified in Design-Builder's Proposal and/or evaluated by Owner during the procurement process.

8.3.2 Construction Subcontractors Providing Design Services. In accordance with Public Contract Code Section 22172.3(d), a construction Subcontractor licensed pursuant to Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code that provides design services on this Project shall not be subject to any liability arising from its design if the construction Subcontract for that design is not performed by that Subcontractor.

8.4 Subcontractor Participation in Performance of the Phase 1 Services. If Design-Builder wishes to retain any Subcontractor to provide assistance to Design-Builder in the performance of the Phase 1 Services, Design-Builder shall so notify Owner. The Parties shall meet and confer about the most appropriate way of having such Subcontractors participate, and Owner will have ultimate authority to determine whether and how any Subcontractor will be awarded a Subcontract to provide Phase 1 Services under this Agreement and, if so, the commercial arrangement with the applicable Subcontractor.

Article 9 **Work Product**

9.1 Owner's Rights in Work Product. Design-Builder hereby assigns and conveys to Owner all right, title, and interest, including all copyrights, patents, or any other intellectual property rights (but excluding Pre-Existing Intellectual Property) in all Work Product and all ideas or methods specifically developed for such Work Product. All Work Product will become the property of Owner on the earlier of: (a) Owner's payment to Design-Builder of monies due in accordance with this Agreement and not subject to a good faith dispute; (b) the date any Work Product is delivered to Owner; or (c) upon any termination of this Agreement. Owner's use of any Work Product for any purpose other than the Project, without the involvement of Design-Builder, shall be at its own risk, and Design-Builder shall have no liability to Owner for or relating to any such use.

9.2 Design-Builder and/or DB-Related Entities' Rights in Work Product. Owner hereby grants Design-Builder and any respective DB-Related Entity, to the extent to which Design-Builder and/or DB-Related Entity developed any Work Product, a perpetual, royalty-free, irrevocable, global, and unrestricted license to use the Work Product for any purposes whatsoever for itself and other clients or owners, including without limitation, the right to copy, develop derivative works, improve, alter, and to further sublicense the Work Product to any other entities, clients, owners, subconsultants and/or subcontractors of any tier. For the avoidance of doubt, Design-Builder may make and retain copies of the Work Product for information, reference and use by DB-Related Entities with respect to the Work. Except as specifically provided in this Section 9.2 and in Section 9.3 below, no DB-Related Entity will own or claim any copyright, patent, or any other intellectual property right in or with respect to any Work Product or ideas or methods specifically developed for such Work Product.

9.3 Pre-Existing Intellectual Property. Owner acknowledges and agrees that in the performance of services under this Agreement, a DB-Related Entity may use proprietary algorithms, software, hardware, databases, other background technology, and other proprietary information that the DB-Related Entity developed or licensed from third parties prior to the Agreement Date or, in the case of the performance of Phase 2 Services, prior to the date upon which the GMP Amendment is effective, or for any specific Early Work Package, prior to the date upon which the relevant Early Work Package amendment is effective ("Pre-Existing Intellectual Property"). Without limiting Owner's rights with respect to the Work Product or the Project, the DB-Related Entity will retain all right, title, and interest in such Pre-Existing Intellectual Property. However, Owner shall have the irrevocable, perpetual, and unrestricted right from and after the Agreement Date to use (or permit use of) all Pre-Existing Intellectual Property incorporated

in the Work Product or the Project, all oral information received by Owner in connection with the Work, and all ideas or methods represented by Pre-Existing Intellectual Property incorporated in the Work Product or the Project, and in each case without additional compensation. Design-Builder hereby licenses such irrevocable, perpetual, and limited rights to Owner for the sole purpose of designing, constructing, commissioning, operating, and maintaining the Project. Owner's use of such license rights for any purpose other than the Project shall be at its own risk, and neither Design-Builder nor any other DB-Related Entity shall have liability to Owner for or relating to any such use. The Parties acknowledge and agree that notwithstanding the foregoing, any third party software purchased or developed for use for the Project, regardless of the date of purchase or development, shall be deemed to be Pre-Existing Intellectual Property, *provided, however*, that any input or output data or other information obtained through such third party software shall be deemed Work Product and not Pre-Existing Intellectual Property, unless such data or other information obtained otherwise meets the definition of Pre-Existing Intellectual Property.

Article 10 **Books and Records**

10.1 Proper Financial Management. Design-Builder 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, consistently applied.

10.2 Retention and Audit of Books and Records. During the performance of the Work and for a period of three (3) years after Final Payment, Owner and its accountants shall be afforded access to, and the right to audit from time-to-time, upon reasonable written notice, all Books and Records relating to the Work, all of which Design-Builder shall preserve for a period of three (3) years after Final Payment. Such inspection shall take place at Design-Builder's offices during normal business hours unless another location and time is agreed to by the Parties. Owner may take possession of such Books and Records by reproducing such Books and Records for off-site review. Within a reasonable time after Owner's written notice, Design-Builder shall provide Owner with copies of electronic and electronically stored Books and Records in a reasonably usable format that allows Owner to access and analyze all such Books and Records. For Books and Records that require proprietary software to access and analyze, Design-Builder shall provide Owner with the means to do so, including a license authorizing Owner to access and analyze all such Books and Records.

10.3 Items Not Subject to Audit. For the avoidance of doubt, Owner shall not have the right to audit any items for which it has accepted a lump sum proposal or agreed upon a fixed price/lump sum, including, but not limited to any agreed-upon billing rates, multipliers or markups agreed to by Owner and Design-Builder as part of this Agreement, which are only subject to audit to confirm that such billing rate, multiplier or markup has been charged in accordance with this Agreement.

10.4 Flow-Down in Subcontracts. Design-Builder shall insert a clause containing all the provisions of this Article 10 in all Subcontracts having values over \$100,000.00.

Article 11 **Owner's Right to Terminate for Convenience Prior to Execution of a Phase 2 Proposal**

11.1 Owner's Right to Terminate for Convenience Prior to Execution of Phase 2 Amendment.

11.1.1 Generally. Prior to execution of the Phase 2 Amendment, Owner may terminate this Agreement for its convenience for any reason, including but not limited to the failure of Owner and Design-Builder to agree upon the terms of a Phase 2 Amendment. Owner's decision to terminate under this Section 11.1.1 shall be made in its sole and absolute judgment. The provisions of this Section 11.1 address Owner's rights to terminate this Agreement for its convenience prior to the execution of the Phase 2 Amendment. For the avoidance of doubt, the termination for convenience provisions of Section 11.6 of the General Conditions of Contract are not applicable to Owner's termination under this Section 11.1.

11.1.2 Sole and Exclusive Remedy. If Owner terminates this Agreement under Section 11.1.1 above, Design-Builder's sole and exclusive right and remedy shall be to be paid for all Phase 1 Services properly performed through the date of the termination notice. Design-Builder shall not be entitled to any overhead or profit on unperformed Work or services of any other kind. In no case shall Design-Builder or any other DB-Related Entity be entitled to anticipatory or unearned profits, unabsorbed overhead, opportunity costs, or consequential or other damages as a result of the termination.

11.1.3 Owner's Rights to Deliver Project. Owner shall have the right, in its sole and absolute judgment, to determine whether to complete the Project and, if so, the delivery approach for the Project, including but not limited to the right to complete the design and use a design-bid-build or construction management at-risk process, retain another design-builder, or any other delivery approach.

11.2 Furnishing of Documents. If Owner has exercised its rights under Section 11.1.1 above, Owner and Design-Builder shall promptly meet and confer about the documents and other materials prepared by Design-Builder, Design Consultants and, if applicable, Subcontractors as part of the Phase 1 Services. Design-Builder shall furnish, or cause to be furnished, to Owner all design documents and other materials, including but not limited to schedules, bid packages, cost estimates, and procurement documents, requested by Owner, which documents shall, to the extent they were not already Work Product, be deemed Work Product.

11.3 Owner's Right to Terminate for Convenience after Execution of Phase 2 Amendment. Upon execution of the Phase 2 Amendment, Owner's rights to terminate this Agreement for convenience shall be governed by Section 11.6 of the General Conditions of Contract.

11.4 Conditional Right of Owner to Contract with Design Consultants. Design-Builder acknowledges that Owner's ability to successfully complete the Project may be significantly impacted if Owner terminates Design-Builder for either cause or convenience and certain Design Consultants (including a Lead Designer) are not available to continue working on the Project. Consequently, Design-Builder hereby agrees that if Owner exercises its rights under Section 11.1.1 above, or exercises its rights to terminate under either Sections 11.2 or 11.6 of the General Conditions of Contract, Owner shall have the right, but not the obligation, to contract directly with any and all Design Consultants for services related to this Project. Design-Builder shall take such steps as are reasonably necessary to enable Owner to implement such relationships, including having a provision in its Subcontracts with Design Consultants that, in the event Design-Builder is terminated under this Agreement for any reason, the Design Consultant will in good faith negotiate with Owner the contractual terms (e.g., scope of work, compensation and other requirements) associated with such Design Consultant continuing to work on the Project. For the avoidance of doubt, Design-Builder shall have no liability to Owner for those acts or omissions of a Design Consultant that take place after the Design Consultant enters into a contract with Owner.

11.5 Design Consultant Liability. In accordance with Public Contract Code Section

22172.2(c)(2), any Design Consultant responsible for performing design services on behalf of Design-Builder that has been replaced shall have sole liability for its design errors and omissions, provided Owner elects to use such Design Consultant's complete and stamped designs with subsequent design-build entities or licensed contractors.

Article 12 **Design-Builder's Representations**

12.1 Representations in Executing Agreement. Design-Builder reaffirms that all disclosures, representations, warranties, and certifications made in Design-Builder's Proposal remain true and correct as of the Agreement Date and shall remain binding and in effect throughout the term of this Agreement.

12.2 Representations in Submitting the Phase 2 Proposal and Executing the Phase 2 Amendment. Design-Builder shall be deemed to have made the following representations with its submission of the Phase 2 Proposal and execution of the Phase 2 Amendment:

(a) Design-Builder has examined, carefully studied, and thoroughly understands the Contract Documents and the Owner-Furnished Information associated with the Work covered by the Phase 2 Proposal and Phase 2 Amendment.

(b) Design-Builder has visited the Site and has become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work covered by the Phase 2 Proposal and Phase 2 Amendment.

(c) Design-Builder is familiar with and is satisfied as to all Legal Requirements that may affect cost, progress, or performance of the Work covered by the Phase 2 Proposal and Phase 2 Amendment.

(d) Design-Builder has correlated the Contract Documents with the information known to Design-Builder, information obtained from the Owner-Furnished Information, and observations made during visits to the Site.

(e) Design-Builder is aware of the nature of other work that will be undertaken by Owner's Separate Contractors, and of the relationship of such other work to the Work.

(f) Design-Builder has given Owner written notice of all conflicts, errors, ambiguities, or discrepancies that Design-Builder has discovered in the Contract Documents and Owner-Furnished Information before submitting the Phase 2 Proposal and the written resolution thereof by Owner is acceptable to Design-Builder.

(g) The Phase 2 Proposal Design Documents are based upon and comply with Owner's Project Criteria.

(h) The Contract Documents are sufficiently complete to indicate and convey an understanding of all terms and conditions for performance and furnishing of the Work covered by the Phase 2 Proposal and Phase 2 Amendment, including having enabled Design-Builder to establish the GMP.

(i) The GMP established by the Phase 2 Proposal contains sufficient monies to perform all Work associated with the Phase 2 Proposal, including Design-Builder's obligation to provide and construct any items that are not explicitly contained in the Phase 2 Proposal Documents but which are reasonably inferable from the Phase 2 Proposal Design Documents and necessary to provide a fully-functioning Project conforming to the Contract Documents.

(j) Design-Builder shall be bound by and shall perform its obligations in full compliance with the Contract Documents.

Article 13 **Liability Limitations**

13.1 Limitation of Liability for Delay Liquidated Damages. Design-Builder's total aggregate liability to Owner for the payment of Delay Liquidated Damages shall not exceed the amount set forth in the Phase 2 Amendment.

13.2 Maximum Liability Cap.

13.2.1 General. Subject to Section 13.2.2 below, Design-Builder's liability to Owner under this Agreement with respect to damages arising out of the performance or unexcused non-performance of any work performed by a DB-Related Entity under this Agreement, whether such damages are based upon contract, breach of warranty (express or implied), tort (including negligence), strict liability, or any other legal theory, shall not exceed an amount equal to one hundred percent (100%) of the Contract Price ("Maximum Liability Cap"), which amount specifically includes any Delay Liquidated Damages paid by Design-Builder.

13.2.2 Exclusions. Notwithstanding Section 13.2.1 above, or anything else in the Contract Documents, Design-Builder's liability for the following shall not be limited or released in any way by the Maximum Liability Cap for the following liabilities, losses, damages, costs or expenses:

(a) Any loss, cost or expense, to the extent such loss, cost or expense is paid by the proceeds of insurance (excluding payment of deductibles) up to the specific amounts Design-Builder is required to carry under Exhibit 14.1 ("Insurance Requirements");

(b) Any loss, cost or expense arising out of or connected with Design-Builder's fraud, fraudulent misrepresentation, gross negligence, willful misconduct, or criminal acts;

(c) Any loss, cost or expense incurred by Design-Builder in connection with Design-Builder's indemnification obligations set forth in Article 7 of the General Conditions of Contract; and

(d) Any loss, cost, expense or penalties incurred by Design-Builder to any person or entity (other than Owner) in any legal proceedings.

13.2.3 Costs to Complete the Work. Notwithstanding the provisions in Section 13.2.1, the costs incurred by Design-Builder in performing the Work and achieving Final Completion shall not be construed as being part of or limited by the Maximum Liability Cap.

13.3 Waiver of Consequential Damages.

13.3.1 General. To the fullest extent permitted by law, and notwithstanding any other provision of this Agreement (other than Section 13.3.2 below), in no event, whether arising out of contract, breach of warranty (express or implied), tort (including negligence), strict liability, or any other cause of or form of action whatsoever, shall either Party be liable to the other for any consequential damages (including, without limitation, damages for loss of use, loss of profits or anticipated profits, loss of revenue, and loss of business opportunity) arising out of or in connection with the performance or non-performance of its obligations under this Agreement.

13.3.2 Exclusions. Notwithstanding Section 13.3.1 above, or anything else in the Contract Documents, Design-Builder's liability for the following shall not be limited or released in any way for the following liabilities, losses, damages, costs or expenses:

(a) Any loss, cost or expense, to the extent such loss, cost or expense is paid by the proceeds of insurance (excluding payment of deductibles) up to the specific amounts Design-Builder is required to carry under Exhibit 14.1 ("Insurance Requirements");

(b) Any loss, cost or expense arising out of or connected with Design-Builder's fraud, fraudulent misrepresentation, gross negligence, willful misconduct, or criminal acts;

(c) Any loss, cost or expense incurred by Design-Builder in connection with Design-Builder's indemnification obligations set forth in Article 7 of the General Conditions of Contract; and

(d) Design-Builder's obligation to pay Delay Liquidated Damages in accordance with Section 3.4 above.

13.4 Applicability

13.4.1 Other Persons and Entities. The provisions of this Article 13 shall be binding on and extend to the benefit of all successors, assignees, employees, officers, directors and Affiliates of each Party; *provided, however,* that the amount of Design-Builder's liability shall not exceed in the aggregate the limits set forth in Section 13.2 above.

13.4.2 Binding Effect. Except to the extent prohibited by applicable Legal Requirements or specific terms to the contrary in this Article 13, the releases, waivers, limitations of liability and other terms in this Article 13 shall apply even in the event of the fault, negligence (in whole or in part), tort, strict liability, breach of contract or otherwise, of the person or entity in whose favor such provisions operate.

Article 14 **Miscellaneous**

14.1 Insurance Requirements. Design-Builder shall procure and maintain the insurance required by Exhibit 14.1 ("Insurance Requirements").

14.2 Performance and Labor and Material Payment Bonds. Design-Builder shall procure and maintain, in accordance with Section 5.2 of the General Conditions of Contract, the Performance Bond in

the form set forth in Exhibit 14.2(a) (“Form of Performance Bond”) and Labor and Material Payment Bond in the form set forth in Exhibit 14.2(b) (“Form of Labor and Material Payment Bond”).

14.3 Key Personnel and Organizational Chart. Design-Builder’s Key Personnel and Project organizational structure are set forth in Exhibit 14.3 (“Key Personnel and Project Organizational Structure”).

14.4 Elements of Design-Builder’s RFP Proposal. Elements of Design-Builder’s RFP Proposal are set forth in Exhibit 14.4 (“Elements of the RFP Proposal”).

14.5 Clayton Act and Cartwright Act. Design-Builder and each DB-Related Entity assigns to Owner rights, title, and interest in and to causes of action under Section 4 of the Clayton Act (15 U.S.C.A. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services, or materials for this Agreement or any Subcontract. This assignment shall be made and become effective without further acknowledgment by the parties at the time Owner makes final payment to Design-Builder.

14.6 Compliance with Labor and Wage Laws.

14.6.1 Public Work. The Parties acknowledge that the Work is a public work as defined in Labor Code section 1720 and that this Agreement is therefore subject to the requirements of Division 2, Part 7, Chapter 1 (commencing with Section 1720) of the California Labor Code relating to public works contracts and the rules and regulations established by the Department of Industrial Relations (“DIR”) implementing such statutes. The Work is subject to compliance monitoring and enforcement by the DIR. Design-Builder shall post job site notices, as prescribed by regulation.

14.6.2 Registration with DIR. Pursuant to Labor Code Section 1771.1, Design-Builder and all Design Consultants and Subcontractors must be registered with, and pay an annual fee to, the DIR prior to and during the performance of any Work.

14.6.3 Prevailing Wages. Design-Builder shall pay prevailing wages to the extent required by Labor Code Section 1771. Pursuant to Labor Code Section 1773.2, copies of the prevailing rate of per diem wages are on file at the offices of Owner and on the DIR website at <http://www.dir.ca.gov/OPRL/DPreWageDetermination.htm> and will be made available to any interested party on request. By initiating any Work, Design-Builder acknowledges receipt of a copy of the DIR determination of the prevailing rate of per diem wages, and Design-Builder shall post a copy of the same at each job site where Work is performed. If this Agreement is subject to the payment of federal prevailing wages under the Davis-Bacon Act (40 U.S.C. § 3141 et seq.), then Design-Builder shall pay the higher of either the state or federal prevailing wage applicable to each laborer.

14.6.4 Penalty for Failure to Pay Prevailing Wages. Design-Builder shall comply with and be bound by the provisions of Labor Code Sections 1774 and 1775 concerning the payment of prevailing rates of wages to workers and the penalties for failure to pay prevailing wages. Design-Builder shall, as a penalty to Owner, forfeit the sum of \$200 for each calendar day, or portion thereof, for each worker paid less than the prevailing rates as determined by the DIR for the work or craft in which the worker is employed for any Work done pursuant to this Agreement.

14.6.5 Payroll Records. Design-Builder shall comply with and be bound by the provisions

of Labor Code Section 1776, which requires Design-Builder and each Design Consultant and Subcontractor to: (a) keep accurate payroll records and verify such records in writing under penalty of perjury, as specified in Labor Code Section 1776; (b) certify and make such payroll records available for inspection as provided by Labor Code Section 1776; and (c) inform Owner of the location of the records. Design-Builder shall submit all required reporting and records directly to the DIR.

14.6.6 Apprentices. Design-Builder shall comply with and be bound by the provisions of Labor Code Sections 1777.5, 1777.6, and 1777.7 and California Code of Regulations Title 8, Section 200 et seq. concerning the employment of apprentices on public works projects. Design-Builder shall be responsible for compliance with these aforementioned Sections for all apprenticeable occupations. Prior to commencing construction Work, Design-Builder shall provide Owner with a copy of the information submitted to any applicable apprenticeship program. Within sixty (60) days after concluding Work, Design-Builder and each of its construction Subcontractors shall submit to Owner a verified statement of the journeyman and apprentice hours performed under this Agreement.

14.6.7 Eight-Hour Work Day. Design-Builder acknowledges that eight (8) hours labor constitutes a legal day's work. Design-Builder shall comply with and be bound by Labor Code Section 1810.

14.6.8 Penalties for Excess Hours. Design-Builder shall comply with and be bound by the provisions of Labor Code Section 1813 concerning penalties for workers who work excess hours. Design-Builder shall, as a penalty to Owner, forfeit twenty-five dollars (\$25) for each worker employed in the performance of this Agreement by Design-Builder or any Design Consultant or Subcontractor for each calendar day during which such worker is required or permitted to work more than eight (8) hours in any one calendar day and forty (40) hours in any one calendar week in violation of the provisions of Division 2, Part 7, Chapter 1, Article 3 of the Labor Code. Pursuant to Labor Code section 1815, work performed by employees of Design-Builder in excess of eight (8) hours per day, and forty (40) hours during any one week, shall be permitted upon public work upon compensation for all hours worked in excess of 8 hours per day at not less than one and one-half (1½) times the basic rate of pay.

14.6.9 Workers' Compensation. California Labor Code Sections 1860 and 3700 provide that every employer will be required to secure the payment of compensation to its employees if it has employees. In accordance with the provisions of California Labor Code Section 1861, Design-Builder certifies as follows:

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

14.6.10 Design-Builder's Responsibility for Subcontractors. For every Subcontractor who will perform work under this Agreement, Design-Builder shall be responsible for such Subcontractor's compliance with Division 2, Part 7, Chapter 1 (commencing with Section 1720) of the California Labor Code, and shall make such compliance a requirement in any Subcontract. Design-Builder shall be required to take all actions necessary to enforce such contractual provisions and ensure Subcontractor's compliance, including without limitation, conducting a review of the certified payroll records of the Subcontractor on a periodic basis or upon becoming aware of the failure of the Subcontractor to pay his or her workers the

specified prevailing rate of wages. Design-Builder shall diligently take corrective action to halt or rectify any such failure by any Subcontractor.

14.7 Subcontractors. Design-Builder shall comply with the Subletting and Subcontracting Fair Practices Act of Public Contracts Code.

14.8 Discrimination. Design-Builder shall not refuse to employ or promote any person, and shall not discriminate against any person with respect to compensation or terms and conditions of employment, and shall not discipline or discharge any person employed because of the person's race, religion, creed, color, national origin, ancestry or sex. Design-Builder shall not refuse to accept otherwise qualified employees as indentured apprentices solely on the grounds of race, religion, creed, color, national origin, ancestry or sex.

14.9 Gratuities. Design-Builder warrants that neither it nor any of its employees, agents, or representatives has offered or given any gratuities to Owner's employees, agents or representatives with a view toward securing this Agreement or securing favorable treatment with respect thereto.

14.10 Conflict of Interest. Design-Builder warrants that its principals have no blood or marriage relationship with, and that it is not in any way associated with, any employee or Board Member of Owner.

14.11 Copeland "Anti-Kickback" Act. If applicable to this Agreement, Design-Builder and its subcontractors shall comply with the provisions of the Copeland "Anti-Kickback" Act (18 U.S.C. Section 874), as supplemented in Department of Labor regulations, which Act provides that each contractor shall be prohibited from inducing, by any means, any person employed in the construction, completion or repair of any public work to give up any part of the compensation to which he is otherwise entitled.

14.12 SCAQMD and CARB Compliance. Design-Builder agrees to comply with all South Coast Air Quality Management District (SCAQMD) and California Air Resources Board (CARB) requirements, including, but not limited to, compliance with CARB Regulations limiting idling of self-propelled diesel-fueled on-road and off-road vehicles and equipment (25 HP and up) to no more than five (5) consecutive minutes as specified in Title 13 of the California Code of Regulations, section 2449 (d)(3), Idling.

14.13 Mined Construction Materials. Design-Builder shall not purchase mined construction material except from a mining operation that is currently identified in the list published pursuant to subdivision (b) of Section 2717 of the Public Resources Code. Refer to the current 3098 list for qualified mining operations at www.consrv.ca.gov/OMR/ab_3098_list/current_list.

14.14 Safety. Design-Builder and all DB-Related Entities shall comply with the provisions of the Safety and Health Regulations for Construction, promulgated by the Secretary of Labor under the Contract Work Hours and Safety Standards Act, as set forth in Title 29, C.F.R. and by the California Division of Industrial Safety.

14.15 Licenses. Design-Builder has California State Contractor's License Board License Classification [XXXX], No. [XXX] and shall maintain said license and obtain and maintain, at its sole cost and expense, such licenses, permits, registrations, and approvals as may be required by applicable Legal Requirements. Design-Builder shall further insure that all Design Consultants and Subcontractors obtain

and maintain all licenses, permits, registrations, and approvals as may be required by applicable Legal Requirements.

14.16 Notice. All notices required by the terms of this Agreement shall be in writing. Notice will be deemed to have been validly given: (a) if delivered in person to the individual intended to receive such notice; or (b) four (4) days after being sent by registered or certified mail, postage pre-paid, with return receipt requested, to the address indicated in the Agreement, or (c) one (1) business day after being sent by overnight delivery via a nationally recognized courier service (e.g., FedEx or UPS), postage, transmittal or shipping charges prepaid, to the addresses set forth below:

If to Design-Builder:

XXXX

If to Owner:

Orange County Mosquito and Vector Control District
13001 Garden Grove Blvd.
Garden Grove CA 92843
Attention: Lora Young, General Manager

14.17 Funding Agreement Requirements. Because the Work may be funded, in whole or in part, with grants or loans from one or more federal and state agencies, this Agreement may be subject to certain contract provisions that are mandated by such grants or loans. Exhibit 14.12 (“Funding Agreement Requirements”) contains specific provisions mandated by several funding agencies, and Design-Builder agrees that it will fully comply with such provisions. Design-Builder further understands that Owner may amend this Agreement to include other provisions mandated by federal or state funding agencies if/when such grants and/or loans are obtained, and Design-Builder agrees that it will fully comply with such provisions. If any provision of the Contract Documents conflicts with any mandated provision referenced above, the mandated provision shall govern.

14.18 Exhibits. The following exhibits (“Exhibits”) are specifically made part of, and incorporated by reference into, this Agreement:

Exhibit 1.2.1(a)	Scope of Phase 1 Services
Exhibit 1.2.1(b)	Owner’s Project Criteria
Exhibit 1.5.1	Owner-Furnished Information
Exhibit 1.5.2	Designated Owner-Furnished Information
Exhibit 3.2.1	Initial 90-Day Schedule
Exhibit 4.1.1	Phase 1 Services Compensation
Exhibit 14.1	Insurance Requirements
Exhibit 14.2(a)	Form of Performance Bond
Exhibit 14.2(b)	Form of Labor and Material Payment Bond
Exhibit 14.3	Key Personnel and Project Organizational Chart
Exhibit 14.4	Elements of Design-Builder’s RFP Proposal
Exhibit 14.12	Funding Agreement Requirements

IN WITNESS WHEREOF, Owner and Design-Builder have signed this Agreement in duplicate. One counterpart each has been delivered to Owner and Design-Builder.

OWNER:

Orange County Mosquito and Vector Control
District

(Signature)

(Printed Name)

(Title)

Date: _____

DESIGN-BUILDER:

XXX

(Signature)

(Printed Name)

(Title)

Date: _____