



Gold Ridge Fire Protection District- Warehouse and Station Remodel

4500 Hessel Rd, Sebastopol, CA
4510 Hessel Rd, Sebastopol, CA

March 10th, 2025

Request For Proposals – Progressive Design Build Services Addendum #1

The following is intended to address the Questions received regarding the proposals.

Question	Should interviews be held, I wanted to know if we could avoid the week of 3/24 as that is Spring Break for some of our children and some team members have planned vacations for that week.
Answer	If the Owner elects to hold interviews, the Interview date will be 3/27/25. Meetings may be held via teams however in person is preferred.

Question	Are designers involved in the original study allowed to join a Design Build Team (e.g. Adobe Associates, Inc.)
Answer	Yes, no firms are precluded as a part of this solicitation.



Question	During the on-site preproposal meeting there was mention of the following; please confirm the expected criteria for including in our response: A. Desire for a pathway between the existing and new buildings. B. Upgrade to 5 or 6 bunks from the currently shown 4 bunks.
Answer	The primary focus is to provide 6 dorm rooms, reconfigure living and administrative space, while updating and addressing any building deficiencies related to current code and degradation. If the target budget allows the addition of a pathway between the existing and new building that would be acceptable.

Question	Is abatement performed by the DBT or the Owner?
Answer	Abatement will be performed by the DBT.

Question	New fire sprinkler system noted on Drawing T1 could be inferred to include the entire building based on the Summary and Scope of Work sections. Is this the Owner's desire or should we keep sprinkler coverage to code minimum?
Answer	The primary focus is to provide 6 dorm rooms, reconfigure living and administrative space, while updating and addressing any building deficiencies related to current code and degradation. If the target budget allows a fully sprinklered system for the entire building it is acceptable.



<p>Question</p>	<p>Target GMP Cost Analysis questions regarding the Exhibit G – Facility Condition Assessment</p> <p>a. Should we assume that we are only addressing MEP system upgrades required for the renovation areas?</p> <p>b. Replacement of the existing fire alarm system seems necessary, please confirm. Should we assume that the water supply pumps and storage tank are being replaced? If no, additional capacity may be necessary to support sprinklers.</p> <p>c. Include upgrades to fuel storage tanks?</p> <p>d. In general, can you provide guidance on how to include the Priority 1-5 Items in this cost analysis?</p>
<p>Answer</p>	<p>The primary focus is to provide 6 dorm rooms, reconfigure living and administrative space, while updating and addressing any building deficiencies related to current code and degradation.</p> <p>The highest priorities contained in Exhibit G will take precedence, however this will be determined and discussed further in design coordination meetings with the Project team and as the budget allows.</p>

<p>Question</p>	<p>On Exhibit C, General Conditions Matrix, it shows the Geotechnical Report as being a cost of the work we are to include with the subs/trades. However, a Geotech Report (Exhibit H) approximately one month old was provided with the RFP. Do we need to do another Geotech Report if awarded the project?</p>
<p>Answer</p>	<p>If additional Geotech reports are deemed necessary, it will be the responsibility of the DBT.</p>



Question	Section 6.4.2. - Boiler and Machinery Insurance – This is typically a peril covered on the Builders’ Risk Policy – Can you please confirm if this will be included in the Builders’ Risk that the owner will be purchasing?
Answer	This section has been removed via Addendum #1

Question	Section 6.4.3. – Design-Builder’s Property – Item (b) states that you “shall bear the risk of loss or damage to any property including but not limited to...” “... any property for which it is responsible or that is in its care, custody, and control, wherever it is located”. This wording seems too broad as the entire project could be considered in your “care, custody, and control”, but the owner is purchasing the Builder’s Risk and presumably the coverage on any existing structures that could be in your “care, custody, and control”. Can this requirement be clarified to identify exactly what the intent is only stating that property owned by the Design Build contractor is the subject? Will Design-Build contractors be required to provide any coverage for any existing structures?
Answer	The owner’s builder’s risk policy will cover losses that are not due to the DBT’s negligence.

Question	Section 6.4.4. – Transit Insurance - This is typically a peril covered on the Builders’ Risk Policy – Can you please confirm if this will be included in the Builders’ Risk that the owner will be purchasing?
Answer	This section has been removed via Addendum #1

The following attachments reflect changes made to the Request for Proposals (RFP) and Exhibit A2.

GRFD RFP - Addendum #1
EXHIBIT A2 General Conditions of Contract - Addendum #1



Gold Ridge Fire Protection District- Warehouse and Station Remodel

4500 Hessel Rd, Sebastopol, CA

4510 Hessel Rd, Sebastopol, CA

March 10th, 2025

ADDENDUM #1

Request for Proposals

Progressive Design-Build Construction Services



Gold Ridge Fire Protection District- Warehouse and Station Remodel

I. INTRODUCTION

Gold Ridge Fire Protection District (“Owner”) is soliciting proposals from qualified Design-Build Teams (“DBTs”) for the new Warehouse and Fire Station 81 Remodel (“Project”) in Sebastopol, California. This Request for Proposals (“RFP”) establishes the requirements for submittal of Proposals (defined below) from Design-Build Teams.

All interested DBTs must submit Proposals using all required forms and in the format required by this RFP. This RFP is not an offer to enter into a contract but merely a solicitation of entities interested in submitting a Proposal to the Owner for the Project.

The Owner reserves the right to find any RFP that is incomplete or otherwise fails to respond to all requirements of this RFP non-responsive, and to give it no further consideration. The Owner also reserves the right to request clarification and/or additional information from any DBT.

Except as provided herein, communication with the officials, representatives, members, or employees of the Owner regarding the substance of the RFP, or any RFP-related matter is prohibited.

Neither this RFP nor the identification of qualified DBTs for any purpose creates any obligation whatsoever, either express or implied, for the Owner to award any contract.

II. PROJECT DESCRIPTION

The Owner is commissioning the construction of a new facility, and the remodeling of an existing building located at 4500 and 4510 Hessel Road, Sebastopol, CA. The Owner desires to use the two-phase progressive design-build approach. The primary goal is to provide additional storage space for the Fire Department and to upgrade and expand the existing Fire Station 81.

Phase 1 includes a new 5,000 sf., 20’ tall, single story administrative warehouse building that will include conditioned and unconditioned storage spaces as well as 4 offices. The building will allow the District to increase the number of administrative employees from three to seven and to continue hosting events and training programs with the existing fire station. The proposed warehouse has been approved by Sonoma County to allow construction for this structure per Use Permit File No. 7492 dates June 7, 2024, as **Exhibit E1-E4** and shall be the basis of the design. The final design of the Warehouse shall meet the parameters and requirements contained within the Use Permit.

Phase 2 includes the upgrade and remodel of the existing Fire station 81. Final programming will be required to be performed with the Owner, however the primary focus is to provide 6 dorm rooms, reconfigure living and administrative space, while updating and addressing any building deficiencies related to current code and degradation. A facility conditions assessment, that included the visual inspection of the building envelope, the MEP systems, site observations, and a code analysis of the existing Fire Station was recently performed as **Exhibit G**. Further assessment will be required by the Design Builder through the development of the program.

Exhibit F provides a preliminary design and is intended for reference only. The final design will be developed to address the Owner’s current and future operational needs, resolve deficiencies identified in the facility conditions assessment, and align with the targeted budget.

The Target Budget for design and construction of the Project is \$6,200,000.



Request for Proposals are desired from cohesive DBTs of General Contractors, Architects of Record and Subconsultants, including but not limited to:

- Structural, Electrical, and Mechanical Designers,
- Civil Engineers

Completion of the design and securing approval from the Authority Having Jurisdiction (“AHJ”) are required steps. However, prior to the selection of the DBT, the Owner has no specific preference for construction methodology—whether modular, prefabricated, or traditional site-built structures are used. We encourage DBTs to select the construction approach that best aligns with their proposed project strategy. DBTs are expected to include teams of design-build subcontractors in their Proposals, along with Modular, Component, or Prefabricated (“MCP”) designers and suppliers as applicable. It is advisable for DBTs to highlight the experience of their team members, leveraging this expertise to strengthen their overall qualifications and project approach.

The DBT is required to hold a California Contractor’s License, Class B, which is current, valid and in good standing with the California Contractors State License Board and is required to be registered with the Department of Industrial Relations (“DIR”) pursuant to Labor Code section 1725.5. The Architect and Principal Engineers are required to be licensed and in good standing in the State of California and have experience working with local codes and jurisdiction of the project to include Sonoma County and California State Water Resources Control Board and Municipal Storm Water Management Plan/Program (MS4).

Kitchell CEM has been retained to prepare the Request for Proposals and other documents upon which the selection is based. To maintain impartiality, Kitchell CEM is not eligible to participate in any DBT submitting a proposal for this project.

III. CONTRACT DOCUMENTS

As part of the Proposal submission process, DBTs must thoroughly review the proposed Progressive Design-Build Agreement specified in **Exhibit A1-A2** of this RFP (hereinafter referred to as the “Contract”). To be considered responsive to this RFP, each DBT must explicitly acknowledge their willingness to enter into the Contract as provided. Any exceptions to the terms, proposed revisions, or clarifications to the Contract must be clearly identified by section, thoroughly detailed, and justified within the Proposal. This includes specifying the exact section and language of the Contract in question, the nature of the exception or revision, the rationale behind it, and the potential impact on the execution of the Project.

DBTs must submit a separate addendum or attachment within their Proposal that compiles all such exceptions or revisions. Failure to disclose any requested changes at this stage will be deemed a waiver of the right to propose revisions later. It is essential that all contractual concerns are fully addressed within the RFP response to ensure a transparent and efficient evaluation and selection process. This ensures that contract negotiations proceed smoothly and without delays upon selection.

This RFP, upon selection and contract execution, will be superseded by the Contract and its associated contractual documents.

Prevailing Wage. All laborers and mechanics employed on the project must be paid wages at rates not less than those prevailing on similar projects in the area, as determined by the Department of Labor in accordance with the grant requirements and applicable law.



Bond and Insurance.

Insurance requirements will be set forth in the Contract. Certain insurance, such as, but without limitation, professional errors and omissions insurance must be submitted before the start of the Design through Agency Approvals Phase Services for the Project.

IV. REFERENCE DOCUMENTS

The following list of documents are included as follows:

- Exhibit A1** Progressive Design-Build Construction Agreement
- Exhibit A2** General Conditions of the Contract
- Exhibit B** Target GMP Form
- Exhibit C** Design Build General Conditions Matrix
- Exhibit D** Cost Responsibility Matrix
- Exhibit E1** GoldRidgeFireProtectionDistrict_DesignReview_Application
- Exhibit E2** GoldRidgeFireProtectionDistrict_DesignReview_Application_Resubmittal
- Exhibit E3** PLP23-0022 Approval Letter
- Exhibit E4** PLP23-0022 Conditions of Approval
- Exhibit F** 070723-Gold Ridge Fire District-Hessel Rd-Progress Set
- Exhibit G** 250206_Gold Ridge FPD Station 81_Final Report
- Exhibit H** Geotechnical Report
- Exhibit I** 22342-Topo
- Exhibit J1** Station 81 Septic Permit Info
- Exhibit J2** 4500 HESSEL APPROVED CONSTRUCTION PLANS SEP23-0264
- Exhibit K** Station 81 Hazardous Material Assessment



V. SCOPE OF DESIGN-BUILDER'S WORK

The DBT will be responsible for all aspects of design, permitting, agency review and approval including, without limitation, compliance with Sonoma County, and other relevant agencies, as well as the construction and agency certification of the Project. The scope of work shall include, without limitation, the following services:

- a. Validating the Owner's space requirements, spatial and adjacency preferences, technical materials, system requirements, and preferences as outlined in the Owner's provided documents. This includes developing specific implementation plans for the security and technology requirements based on the Owner's specifications. The DBT shall verify compliance with all applicable codes, ordinances, and requirements of agencies having jurisdiction, confirm the existing utility provisions, topography, and adjacent improvements, and provide recommendations for the preparation of final geotechnical and geohazard reports. Additionally, the DBT shall manage all work activities, from design through permitting and agency approvals, to the completion of construction and close-out, including obtaining final certification from the Authority Having Jurisdiction (AHJ). The Owner shall be responsible for paying all agency fees.
- b. The DBT shall provide complete design and engineering services necessary to finalize the design and secure all required agency approvals for the Project. These services include evaluating the site, reviewing design criteria documents and other Project-related information, preparing a preliminary schedule, coordinating and obtaining all necessary planning permits, preparing design development documents, attending design review meetings, resolving review comments to the satisfaction of the Owner, preparing construction documents, and securing all necessary agency approvals for a certified Project.
- c. The DBT shall coordinate with all utility companies and relevant agencies, obtaining necessary applications and approvals for utility design and construction. The Owner will pay any utility permits and connection fees.
- d. The DBT shall coordinate with Sonoma County to address requirements for design and construction, including, but not limited to, driveways, sidewalks, and required health clinic-related pavement markings and signage.
- e. The DBT shall provide all necessary construction services to complete the Project. These services include the execution of subcontracts, providing on-site logistics and support (including, but not limited to, temporary construction office trailers and equipment), supervising and directing the work, ensuring the safety of the site, coordinating subcontractor work efficiently, updating the construction schedule on a monthly basis, coordinating equipment start-up and acceptance testing, training staff as required, preparing record construction documents, and closing out the Project. Further clarifications can be found in **Exhibit A2** General Conditions of Contract, **Exhibit C** - Design Build General Conditions Matrix and **Exhibit D** - Cost Responsibility Matrix,
- f. **Timeline and Milestones:** The DBT shall ensure that all milestones, including design approvals, permitting, and construction phases, are completed in a timely manner to achieve final Project completion and certification no later than Phase 1: March 2026 and Phase 2: October 2026 or as determined by the timeline and milestones included in the DBT's proposal. The delivery dates will be a factor in the scoring of DBTs proposals. Failure to meet this deadline will subject the DBT to liquidated damages as specified in the Contract.



VI. STANDARD OF CARE AND COORDINATION

- a. **Standard of Care.** The DBT, including its officers, employees, agents, subcontractors, and design professionals, shall perform all services and work with the highest standard of care, consistent with practices observed by professionals specializing in projects of similar type, scope, and complexity, particularly in the healthcare infrastructure sector. All work shall be performed in strict compliance with the Design-Build Contract, as well as all applicable local, state, and federal laws, regulations, and ordinances.
- b. **Coordination.** The DBT shall be responsible for coordinating all aspects of the work required under the Contract, ensuring seamless integration of design, permitting, construction, and certification activities. The DBT shall be fully accountable to the Owner for the performance of any design professionals, subcontractors, or consultants employed for the Project. The DBT must ensure that all agreements with subcontractors and consultants reflect the terms and obligations of the Design-Build Contract.

VII. CRITICAL DATES

A. Submittal Due Dates:

DBTs shall submit RFP in the format specified in below, which shall include the Target GMP (TGMP) form attached hereto as **Exhibit B**. Each shall be submitted in a sealed envelope or box identifying the DBT’s name and contact information, and the Project Name.

Completed RFPs are due no later than **March 18, 2025 at 2:00p.m.** Proposals submitted after this time will not be accepted.

Completed hard copy RFPs shall be delivered to:

Gold Ridge Fire Protection District ~~Read~~
Attn: Leslie McCormick
4500 Hessel Road
Sebastopol, CA 95472

B. Tentative Selection Process Schedule:

The procurement is expected to progress according to the following timeline, but the Owner reserves the right to change key dates and actions as the need arises:

February 12, 2025	RFP to Design Build Teams
February 25, 2025 @ 9:00 AM	On-Site Pre-Proposal Meeting- Not Mandatory
March 4, 2025 @ 2:00 PM	Deadline to submit RFP questions via email
March 14 10, 2025 @ 2:00 PM	Questions and answers related to RFP released via Addenda
March 18, 2025 @ 2:00 PM	Deadline to submit Request for Proposal
March 25 27, 2025	Interviews if necessary



April 15, 2025	Notice to Proceed for Design/Build Agreement
July 30, 2025	Target Construction Phase 1 GMP
September 30, 2025	Target Construction Phase 2 GMP
March, 2026	Phase 1 Project Complete
October, 2026	Phase 2 Project Complete

VIII. ADDITIONAL INFORMATION

A. Communication Regarding the RFP:

All communications regarding this RFP, the Project, or any RFP must be conducted via email and directed exclusively to the Owner's Representative:

Brian Anastacio
Kitchell CEM
banastacio@[kitchell.com](mailto:banastacio@kitchell.com)

Please ensure that all emails include the subject line: Gold Ridge Fire Protection District – Warehouse and Station Remodel.

Except during the interview, or negotiation phases as outlined herein, any communication regarding the RFP, the Project, or any RFP with any employees, representatives, or consultants of the Owner or the Gold Ridge Fire Protection District is strictly prohibited. Unauthorized interactions with other employees, representatives, or consultants from the Owner or the Gold Ridge Fire Protection District may lead to disqualification of the DBT from the RFP process and could result in the termination of further consideration or engagement with such DBT.

B. Investigation of DBT's Proposals:

The Owner reserves the right to investigate the proposals and review any information provided by all firms under consideration. This process is to verify any part of the information supplied by the DBTs or to assess any DBT's responsibilities. DBT proposals will be evaluated based on the submitted RFP and any other pertinent information available to the Owner. Additionally, the Owner may, at its discretion, request additional information at any time if deemed necessary to confirm the firm's competence, the number of qualified employees, organizational structure, and financial resources sufficient to perform the required services for the Owner. It is important to note that this right to investigate does not impose an obligation on the Owner to conduct such investigations in every instance.

C. Project Approach

The Project will be delivered utilizing a progressive design-build contracting method. The qualified DBTs will submit pricing information including the cost for design services, as well as the hourly billing rates for the design team,



DBT, and its key subcontractors (e.g., design-build trades). Additionally, the DBT will provide a budget for the DBT's general conditions and general requirements as detailed in **Exhibit B** Target GMP Form, based on the qualified proposer's Project schedule.

We envision that the Project will proceed through an incremental or subphase approach, allowing design and construction activities to be carried out simultaneously as each increment (or subphase) is being designed, permitted, and construction is commenced. This approach ensures a flexible and efficient progression of work, accommodating adjustments and refinements as the Project advances.

The Work is divided into the following phases: (a) Pre-Construction Design Phase; (b) Construction Phase 1 (Warehouse); (c) Construction Phase 2 (Station Remodel). Each phase may consist of subphases, which may proceed incrementally or simultaneously, as directed by the Owner. The transition between phases will be contingent upon the completion and approval of design documents and the establishment of a Guaranteed Maximum Price through a GMP Amendment.

Preconstruction Design Phase- Proposal GMP- (Preconstruction for Warehouse and Station remodel)
Construction Phase 1- Warehouse Construction GMP
Construction Phase 2- Station remodel construction GMP

Final pricing for the cost of the trade work ("Direct Costs") will not be determined until design has progressed to an agreed level for each subphase. This phased pricing ensures accurate cost estimation and alignment with the Project's evolving requirements.

D. Reservation of the Owner's Rights:

The Owner expressly reserves the unqualified right to undertake any of the following if advantageous to the Owner, at the Owner's sole discretion:

1. Accept or reject any or all of the submitted RFPs;
2. Waive or decline to waive any and all defects as to form, content, informalities, minor technical inconsistencies and/or irregularities in any RFP or the RFP process;
3. Terminate the RFP process at any time;
4. Modify and/or suspend any and all aspects of the RFP;
5. Re-issue the RFP;
6. Extend the time frame for submission of the RFPs to the parties known to Owner to have received a copy of the RFP. Any deadlines, if extended, will be done by the issuing of Addenda. It is solely an Applicant's obligation to check for any and all Addenda and the contents thereof;
7. Accept amendments (if requested by the Owner) to proposals after expiration of the deadline for receipt of proposals;
8. Request clarification of information submitted, or to request additional information, from any or all submitting Applicants;
9. Hold all proposals for a period of ninety (90) days after the deadline for receipt of proposals;
10. Decline to enter into a contract with any Applicant after the RFP process; and
11. Conduct personal interviews of any or all Applicants during the RFP process before making selection or recasting of the Finalists in this RFP process.

The Owner reserves the right to deem any proposal that is incomplete, not in the required format, or fails to meet all requirements of this RFP as non-responsive, and to exclude it from further consideration without notice. The Owner reserves the right to waive any immaterial deviation from the requirements of this RFP. The Owner may request clarification or additional information from any DBT at any time.



The issuance of this RFP and the identification of qualified DBTs create no obligation, either express or implied, for the Owner to award or approve any contract. Being a short-listed DBT signifies merely the Owner's intent to receive RFPs; it is not a commitment to finalize an agreement. Accordingly, DBTs acknowledge that they cannot claim to have detrimentally relied on the Owner for any expenses or liabilities incurred during the response to this RFP. Each Applicant assumes all risks and/or consequences of an incorrect delivery or an untimely delivery of a RFP.

E. Addenda:

In its discretion, the Owner may, at any time, issue one or more addenda to this RFP revising or clarifying requirements of this RFP or the Project, which may include extending the date that RFPs are due and/or responding to questions about this RFP. DBTs are responsible for verifying that they have obtained all addenda. Each DBT must, in its RFP, acknowledge each addendum that has been issued. In no event shall the Owner be responsible for any failure of a DBT to verify that it has received all addenda.

F. Cost of Responding to the RFP:

Each DBT is responsible for any and all costs that it incurs in connection with responding to this RFP, including, without limitation, costs associated with preparation and submission of a RFP and/or Proposal and expenses associated with responding to further inquiries from the Owner. The Owner will not reimburse any DBT for any such costs or expenses under any circumstances. No stipend or payment will be provided to any DBTs, regardless of the outcome.

G. Privacy and Confidential Information:

The Owner will open and review responses privately to assure confidentiality and to avoid disclosure of the contents to competing DBTs prior to and during the review and evaluation process. However, upon notification of intent to award the Design-Build Contract, portions of the contents of the RFP may become subject to release pursuant to any applicable public records act or grantor requirements.

IX. SELECTION PROCESS

In selecting the successful DBT from the final DBTs, the Owner reserves the right in its sole discretion to request additional interviews. Factors the Owner may consider in determining which Proposal provides the best value to the Owner may include, without limitation:

- a. Plan, approach, and schedule to obtaining AHJ approval and completing construction, including approach and timing to bring on sub consultants and subcontractors
- b. Qualifications, expertise, and experience of key team members including Builder's project manager, Cost estimator, Architect's Designer, and Architect's Project Manager, if different
- c. Price of Preconstruction services, General Conditions Costs during Construction, Overhead and Profit Percentages for Construction Costs, and Costs of Bonds and Insurance

The proposal should be clear, concise, complete, well organized and demonstrate both DBT's qualifications and its ability to follow instructions. Proposals will be scored by the Selection Committee based on the evaluation criteria outlined in the RFP Content and Format. The Owner will identify and notify the selected Design-Builder

Provide one (1) signed original proposal (marked "original") and four (4) copies, each in a three-ring binder, and two



(2) pdf files in electronic form, each on a separate flash drive. In the event of any discrepancy between the hard copy and the pdf copies of the proposal, the hard copy will control.

X. RFP CONTENT AND FORMAT

All DBTs shall follow the order and format specified below. Please tab each section of the Proposal to correspond to the numbers shown below under “Body of Submittal.”

A. Submittal Cover

Include the RFP’s title and submittal due date, the name, address, e-mail address, fax number, and telephone number of DBT, including each member of the DBT.

B. Table of Contents

Include complete and clear listings of heading and pages to allow easy reference to key information.

C. Body of Submittal and Points

For purposes of the following, “associates” shall mean an entity’s officers, directors, qualifying individual(s) for a contractor, and owners of more than 10% of the company.

The following sections should be included in the order listed:

1. **Cover Letter:** A letter signed by an officer of DBT or signed by another person with authority to act on behalf of and bind DBT.
 - a. Provide name, phone number, email address, and facsimile number for the person who has the legal authority to bind the DBT to a contract. This person shall also be the person that signs the Cover Letter on behalf of the DBT.
 - b. Statement that the information required under this submission shall be certified under penalty of perjury by the design-build entity and its general partners or joint venture members.
 - c. **DBT must acknowledge all addenda within the cover letter.**

0 points.

2. Project Team Organization / Key Personnel:

- a. Project Team. Identify at a **minimum** the following design consultants: Architect, Civil Engineer, Electrical Engineer, Fire Protection Engineer, Mechanical Engineer, Structural Engineer, and Title 24/Code Consultant.
- b. Organization Chart. Provide a Team Organizational Chart identifying all of the proposed Key Personnel within each team component (e.g., design consultants, preconstruction consultants, etc.) and how the team will be managed. Clearly define the duties of each Key Personnel for the Project.
- c. Qualifications of Key Personnel:



- i. Provide resumes of **all** Key Personnel who would be performing Services for the Project. The Key Personnel must include, at minimum, the following individuals:
 1. Design Manager
 2. Project Manager
 3. Project Architect
 4. Project Design Engineer(s)
 5. Construction Work Project Manager
 6. Construction Work Superintendent
 7. Quality Manager
 8. Safety Manager
- ii. Resumes shall include:
 1. A description of training and experience of the Key Personnel in their respective areas of expertise.
 2. Current position/title proposed position/title, education, professional licensing, and work experience over the last ten (10) years.
 3. Experience on projects of similar size, scope, complexity, and budget.
 4. Professional certifications, training, and technical expertise.
- iii. Provide a matrix of proposed staffing and completed projects to illustrate where the Key Personnel have worked together on previous projects. Provide basic project information including owner contact information.

20 points.

3. **Substantive Responses:** DBT's Proposal shall respond to and provide information regarding the following substantive areas.
 - a. Approach to Design. Indicate a clear understanding of the objectives and describe the DBT's approach to designing the facility consistent with the Owner's and objectives. Include any information that demonstrates how the DBT is uniquely qualified to perform the Work on the project.
 - b. Workplan. Describe DBT's approach and workplan for the Project. The approach shall include a narrative that addresses, at a minimum, the following:
 - i. How DBT will monitor design target values utilizing a Target Value Design approach to achieve the Target GMP.
 - ii. Describe how the DBT will work together to undertake the following tasks, and to maximize and achieve the Target GMP: design, design review, constructability review, estimating, value engineering, scheduling, and phasing, construction methods, materials, equipment and systems, and the recommendation of specific building systems and materials and/or methods.
 - c. Pre-GMP Quality Control Plan. Provide a project specific quality control plan that will be used during Pre-GMP Phase Work.
 - d. Project Management and Coordination with Owner.
 - i. Describe how the DBT will proactively manage design and design review in conjunction with Owner staff and Stakeholder staff.
 - ii. Identify how the DBT will facilitate and document the decision-making process, building consensus, maintaining the Contract Schedule, identifying risks, staying within the Target GMP and managing expectations.
 - e. Centralized Office. The DBT is required to establish and maintain a centralized office for the duration



- of the design process. Identify where the office will be, and the proposed format and locations of meetings (i.e., virtual conferences, in-person, big room concept, etc.).
- f. Post-GMP Phase Work Quality Control Plan. Provide a Project- specific quality control plan that will be used during the Post-GMP Phase Work, including, without limitation:
 - i. The methodology that will link the constructability, value engineering, and cost control management processes for a seamless flow from design to construction between the trades and as coordinated by the DBT.
 - ii. Processes to coordinate with Authorities Having Jurisdiction.
 - iii. Review and coordination of all submittals/shop drawings prior to submitting to the Owner for review.
 - iv. The process and Key Personnel that will be tasked with assessing the craftsmanship and workmanship by all trades and verify that all materials installed are per the approved submittals and shop drawings.
 - v. How mock-ups will be used to determine the level of craftsmanship and workmanship required to meet the Owner requirements for quality.
 - vi. Preconstruction Services conferences to verify that the Subcontractors are familiar with the scope of work and process required for the coordination of inspections, field testing, shop drawing approval, and submittal approval as related to their scope of work. Detail which building systems will be included in preconstruction conferences. Provide documented examples from previous projects.
 - vii. Processes to perform quality control prior to requesting inspections, material testing and special inspections.
 - g. Project Risks. Identify Project risks, which are conditions or events that could negatively affect the Project scope, quality, schedule or cost. DBT shall evaluate the risk to include severity of impact, probability of occurrence and other factors as DBT deems appropriate and recommend ways to manage or mitigate each risk. DBT shall present the risk analysis in a risk matrix format.
 - h. Design and Construction Schedule:
 - i. Provide a preliminary design and construction schedule showing proposed progress from the Notices to Proceed for Pre-GMP Phase Work and Post-GMP Work through to the Completion of the Project. Include all Phases and, components thereof (including contract milestones) from Schematic Design to Final Completion. The schedule must include specific time for review and/or approval from Authorities Having Jurisdiction and identify adequate time for the Owner to review submittals.
 - ii. Discuss the DBT's ability to prepare and meet achievable design and construction schedules for design-build projects, DBT's schedule management procedures, and how the DBT has successfully handled potential delays. Include a specific example or resolution of delay with a subcontractor. Specifically describe DBT's experience coordinating and obtaining approvals from Authorities Having Jurisdiction and describe how Design Build Entity will minimize delays to the Project arising from agency reviews.
 - iii. DBTs must provide a detailed project timeline that demonstrates how they will meet all key milestones, including final project completion by October 2026. Proposals with a clear, achievable timeline for meeting this hard deadline will score higher.
 - i. Preconstruction Services / Subcontractor Procurement and GMP Negotiations.:
 - i. Describe the DBT's approach to Preconstruction Services. In the description, specifically describe the types and number of documents produced, the types of meetings held, and any approvals from Authorities Having Jurisdiction needed for the Project.
 - ii. After the Owner's approval of Design Development Documents, the DBT shall procure Subcontractors and propose a GMP as set forth in the Contract Documents. Describe the DBT's process for approaching negotiations of a final GMP and its process to provide transparent costs to the Owner.



40 points.

4. Target GMP Cost Analysis

DBTs will be assessed based on their understanding and approach to the targeted GMP. Emphasis will be placed on methods that demonstrate realistic projections and identify potential cost savings.

10 points.

5. Contract Acceptance, Comments, Safety Record

DBTs must explicitly confirm their acceptance of the Contract. Any exceptions, proposed revisions, or clarifications to the Contract must be clearly identified by section, thoroughly detailed, and justified within the Proposal. DBTs must also submit a separate addendum compiling all exceptions or revisions.

Any requests for revisions to provisions specified in Section III of this RFP, where the Owner indicated that it will not accept requests for material changes or that the Owner will not agree to specific provisions listed, will result in the disqualification of the DBT's Proposal.

Evidence that establishes that the DBT has the capacity to obtain all required payment and performance bonding, liability insurance, and errors and omissions insurance.

Information concerning workers' compensation experience history and a worker safety program.

DBT will provide their safety record and Experience Modification Rate. A proposer's safety record shall be deemed favorable if its experience modification rate for the most recent three-year period is an average of 1.00 or less, and its average total recordable injury or illness rate and average lost work rate for the most recent three-year period does not exceed the applicable statistical standards for its business category or if the proposer is a party to an alternative dispute resolution system as provided for in Section 3201.5 of the Labor Code.

10 points.

6. Price Component

DBT's will be evaluated based on Preconstruction Services, Construction fee, Professional Service Rates, General conditions and remaining funding for the construction of the project as listed in the **Exhibit B** Target GMP Form.

20 points.

7. Interview

Interviews will be conducted at the Owner's discretion. If the Owner chooses to hold interviews, up to the top three scorers will have the opportunity to earn up to an additional 20 points added to their subtotal score.

20 points (if applicable and at the discretion of the Owner).



Points Table

Description	Points Available
Cover Letter	0 PTS
Project Team Organization / Key Personnel	20 PTS
Substantive Responses	40 PTS
Target GMP Cost Analysis	10 PTS
Contract Acceptance, Comments, Safety Record	10 PTS
Price Component	20 PTS
Subtotal	100 PTS
Interview	20 PTS
Total Maximum Points	120 PTS

TOTAL Maximum Points: **120 Points**

XI. LEGAL ACKNOWLEDGEMENTS AND WAIVER

In submitting a proposal, each DBT agrees to waive any and all claims it has or may have against the Owner, including the Owner's employees, officers, agents, representatives, and members of the Owner's governing body, arising out of or in connection with this RFP. This waiver covers all aspects of the RFP process, including but not limited to, the administration of the RFP, the evaluation of RFPs, the selection of the DBTs, any disclosure of information pertaining to the RFPs or evaluations, and the negotiation of contracts. The submission of a RFP constitutes the DBT's acceptance of the evaluation technique and process as described in this RFP.

END OF RFP

EXHIBIT A2 - ADDENDUM #1

GENERAL CONDITIONS OF THE CONTRACT BETWEEN OWNER AND DESIGN-BUILDER

ARTICLE 1 COMPLETION OF THE WORK AND TIME EXTENSIONS

1.1 Time is of the essence of the Design-Build Contract. Design-Builder shall diligently pursue the completion of the Work and coordinate its Work with that being done on the Project, if any, by Owner or any separate contractors so that its Work or the work of others shall not be delayed or impaired by any act or omission by Design-Builder.

1.2 Within fourteen (14) calendar days of the Effective Date of the Agreement, Design-Builder shall submit to Owner for review a detailed critical-path-method (CPM) schedule in electronic format for performance of the Agreement, in a form acceptable to Owner, and consistent with the Contract Time. Once mutually approved in writing by the parties, such schedule (the "Performance Schedule") shall govern Design-Builder's performance of the Work. Owner may, from time to time, request Design-Builder to make reasonable modifications and revisions in the Performance Schedule and to document such modifications and revisions in a form acceptable to Owner and Design-Builder. Design-Builder shall continuously monitor the Performance Schedule and shall advise Owner of the status of its performance on a monthly basis including information on the status of materials or equipment which may be in the course of preparation or manufacture. Design-Builder shall immediately notify Owner of any circumstances which may affect the times and sequences in the Performance Schedule and shall make all requests for time extensions in writing to Owner.

1.3 If Design-Builder is responsible for any delays in the time and or sequence of the performance of the Work that is on the critical path of the Performance Schedule, Design-Builder shall on its own initiative or at Owner's written directive, employ such additional forces, obtain such additional equipment, employ such additional supervision, pay such additional overtime wages, and use such priority freight as may be required to bring the Work back on schedule. If Design-Builder's progress is more than twenty-one (21) days behind the critical path of the Performance Schedule, Owner may, in addition to any other remedies available to it under the Design-Build Documents, at law or equity, also require in writing that Design-Builder submit, within two (2) days of Owner's written notice and for Owner's approval, a recovery plan to Owner detailing Design-Builder's proposal for bringing the Work back on schedule. In no event shall such costs to bring the Work back on schedule cause the Contract

Sum to be increased. This Section 1.3 shall not be construed to require that Owner give Design-Builder a written notice to perform any of the acts listed herein, and Owner's failure to give such written notice to Design-Builder shall not in any way relieve Design-Builder's obligation to perform the designated portion of the Work or the entire Work within the times listed in the Performance Schedule or within the Contract Time.

1.4 For purposes of this Article 1, the term "delay" shall include hindrances, disruptions, inefficiencies, impact, ripple, obstructions, lost production or any other similar term in the industry.

1.5 Design-Builder must give detailed written notice to Owner of any delay in the Work within three (3) calendar days of the date that Design-Builder knew or reasonably should have known of the first occurrence or beginning of such delay. The notice shall provide a detailed description of the delay and causes of the delay, the amount of impact on the Performance Schedule. The notice provisions of this Section 1.5 are of the essence of the Design-Build Contract and are a condition precedent to recovering any additional time or money under the Design-Build Contract.

1.6 If Design-Builder or anyone on its behalf successfully challenges the enforceability of the Substantial Completion Liquidated Damages, Design-Builder specifically agrees to pay Owner all actual damages incurred by Owner in connection with the delay in achieving Substantial Completion of the Work.

ARTICLE 2 DESIGN-BUILDER

2.1 DOCUMENTS AND SAMPLES AT THE SITE

2.1.1 The Design-Builder shall maintain at the site for the Owner's convenience one (1) record copy of the Drawings, Specifications, addenda, Change Orders, field orders, testing and inspection records, and other Modifications, in good order and marked currently to record field changes and selections made during construction, and one (1) record copy of approved Shop Drawings, Product Data, Samples and similar required submittals. These shall be delivered to the Owner upon completion of the Work.

2.2 SHOP DRAWINGS, PRODUCT DATA AND SAMPLES

2.2.1 Shop Drawings are drawings, diagrams, schedules and other data specially prepared to be used and/or reviewed for the Work by the Design-Builder or a Subcontractor, or Vendor to illustrate some portion of the Work.

2.2.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams and other information furnished by the Design-Builder to illustrate materials or equipment for some portion of the Work.

2.2.3 Samples are physical examples that illustrate materials, equipment or workmanship and establish standards by which the Work will be evaluated.

2.2.4 Shop Drawings, Product Data, Samples and similar submittals are not Design-Build Documents. The purpose of their submittal is to demonstrate for those portions of the Work for which submittals are required by the Design-Build Documents the way by which the Design-Builder proposes to conform to the Design-Build Documents. Submittals that are not required by the Design-Build Documents may be returned by the Owner without further action.

2.2.5 The Design-Builder shall review for compliance with the Design-Build Documents and approve and submit to the Owner Shop Drawings, Product Data, Samples and similar submittals required by the Design-Build Documents with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of separate contractors. Submittals that are not marked as reviewed for compliance with the Design-Build Documents and approved by the Design-Builder may be returned by the Owner without further action.

2.2.6 By approving and submitting Shop Drawings, Product Data, Samples and similar submittals, the Design-Builder represents that the Design-Builder has determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and has checked and coordinated the information contained within such submittals with the requirements of the Work and of the Design-Build Documents. The accuracy of all such information is the responsibility of the Design-Builder. In approving Shop Drawings, Product Data, Samples and similar submittals, the Owner shall be entitled to rely upon the

Design-Builder's representation that such information is accurate and in compliance with the Design-Build Documents.

2.2.7 The Work shall be in accordance with approved submittals, except that the Design-Builder shall not be relieved of responsibility for deviations from requirements of the Design-Build Documents by the Owner's approval of Shop Drawings, Product Data, Samples, or similar submittals, unless the Design-Builder has specifically informed the Owner of such deviation at the time of submittal and (1) the Owner has given written approval of the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Design-Builder shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals by the Owner's approval thereof.

2.2.8 The Design-Builder shall direct the Owner's specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to revisions other than those requested by the Owner on previous submittals. In the absence of such written notice, the Owner's approval of a resubmission shall not apply to such revision.

2.3 DESIGN-BUILDER'S COMPLIANCE WITH DESIGN-BUILD DOCUMENTS

2.3.1 The Design-Builder agrees to refer all questions about the Design-Build Documents to the Owner for resolution. The Owner's decisions shall adhere to the hierarchy outlined in Section 3.1 for consistent conflict resolution. The Design-Builder accepts and assumes that the Owner's decision will require implementation of the most stringent requirements among any conflicting provisions of the Design-Build Documents as being part of the Work. Any failure by the Design-Builder to seek such clarifications shall in no way limit the Owner's ability to require such implementation, including replacement by the Design-Builder of installed Work at a later date, to achieve compliance with the standard required pursuant to this Section 2.3.1.

2.3.2 The failure of the Owner to insist in any one or more instances upon strict compliance with any provision of the Design-Build Contract, or to exercise any option herein conferred, shall not be construed as a waiver or relinquishment of the Owner's right thereafter to require compliance with such provision

of the Design-Build Contract, or as being a waiver of the Owner's right thereafter to exercise such option, and such provision or option will remain in full force and effect.

2.3.3 The Design-Builder shall be responsible for dividing the Work among the appropriate qualified Subcontractors and Vendors. No claim will be entertained by the Owner based upon the organization or arrangement of the Specifications or the Drawings into areas, sections, subsections or trade disciplines.

2.3.4 Detail drawings shall take precedence over scale drawings, and figured dimensions on the Drawings shall govern the setting out of the Work.

2.3.5 Unless the Specifications expressly state otherwise, references to documents and standards of professional organizations shall mean the latest editions published prior to the Effective Date of the Agreement.

2.3.6 Technical words, abbreviations, and acronyms in the Design-Build Documents not defined therein shall be used and interpreted in accordance with customary usage in the construction industry.

2.3.7 Whenever consent, permission, or approval is required from any party pursuant to the provisions of the Design-Build Documents, such consent, permission, or approval shall, unless expressly provided otherwise in the Agreement, be given or obtained, as applicable, in writing.

2.4 USE OF SITE

2.4.1 The Design-Builder shall confine operations at the site to areas permitted by law, ordinances, permits and the Design-Build Documents as long as such is in accordance with such laws, ordinances, and permits, and shall not unreasonably encumber the site with materials or equipment. The Design-Builder shall submit to the Owner, for Owner's review, at Design Development and Construction Document phases, or upon request of Owner, of a construction staging and operations plan that indicates all Design-Builder impacts to the site for staging, operations, storage, traffic control, Design-Builder parking and other activities for construction.

2.5 CUTTING AND PATCHING

2.5.1 The Design-Builder shall be responsible for cutting, fitting or patching required to complete the Work or to make its parts fit together properly.

2.5.2 The Design-Builder shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner or separate contractors by cutting, patching or otherwise altering such construction or by excavation. The Design-Builder shall not cut or otherwise alter such construction by the Owner or a separate contractor except with written consent of the Owner and of such separate contractor; such consent shall not be unreasonably withheld. The Design-Builder shall not unreasonably withhold consent from the Owner or a separate contractor to cutting or otherwise altering the Work.

2.6 CLEANING UP

2.6.1 The Design-Builder shall keep the premises and surrounding area free from accumulation of waste materials or rubbish caused by operations under the Design-Build Contract. At completion of the Work, the Design-Builder shall remove from and about the Project waste materials, rubbish, the Design-Builder's tools, construction equipment, machinery and surplus materials.

2.6.2 If the Design-Builder fails to clean up as provided in the Design-Build Documents after reasonable notice from the Owner of such failure, the Owner may, at its sole discretion, do so and the cost thereof shall be charged to the Design-Builder and be due and payable upon request by the Owner.

2.7 ACCESS TO WORK

2.7.1 The Design-Builder shall provide the Owner access to the Work in preparation and progress wherever located and shall provide the Owner with such access to Design-Builder's employees, safety equipment or other measures to assure their safety.

2.8 ROYALTIES, PATENTS AND COPYRIGHTS

2.8.1 The Design-Builder shall pay all royalties and license fees associated or in connection with the Work or the Project. The Design-Builder shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner harmless from loss on account thereof. This provision of this Section 2.8.1

shall survive the completion of the Work or earlier termination, suspension, cancellation, or expiration of the Design-Build Contract.

2.9 PROJECT MANAGER, SUPERINTENDENT

2.9.1 The Design-Builder shall employ a competent project manager who shall represent the Design-Builder in the overall planning, execution and closing of the Project including but not limited to observing all constraints related to the cost, timing and scope of the Project, and communications of Owner's Designated Representative given to the project manager shall be as binding as if given to the Design-Builder.

2.9.2 The Design-Builder shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project Site during all performance of the Work. The superintendent shall represent the Design-Builder, and communications of Owner's Designated Representative given to the superintendent shall be as binding as if given to the Design-Builder.

2.9.3 The superintendent and project manager shall be satisfactory and/or acceptable to the Owner and shall be replaced within seventy-two (72) hours of a written request submitted by the Owner that the superintendent or project manager is unsatisfactory and/or unacceptable to the Owner.

ARTICLE 3 **CHANGES IN THE WORK**

3.1 GENERAL

3.1.1 Changes in the Work may be accomplished after execution of the Design-Build Contract, and without invalidating the Design-Build Contract, by written Change Order or Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 3 and elsewhere in the Design-Build Contract.

3.1.2 A Change Order shall be based upon written agreement between the Owner and Design-Builder. A Construction Change Directive or order for a minor change in the Work may be issued by the Owner with or without agreement by the Design-Builder.

3.1.3 Owner shall have the right to conduct an audit of Design-Builder's books and records to verify the accuracy of Design-Builder's Claim with respect to Design-Builder's costs associated with any change in

the scope of Work or any other request for additional compensation, and Owner shall be entitled to any material that relates to any such change in the scope of Work or any other request for additional compensation.

3.2 CHANGE IN THE WORK

3.2.1 Owner shall have the right, at any time during the progress of the Work, to increase or decrease the scope of the Work in the Design-Build Contract. Promptly after being notified of a change by the Owner, the Design-Builder shall submit an itemized estimate of any cost increases or savings it foresees as a result of the change, as well as the amount of impact on the Performance Schedule. No change in Work, whether by way of alteration, addition, or clarification of interpretation, shall be the basis of adjustment to the Contract Sum or Contract Time, unless and until authorized by the Owner in writing in a Change Order or Construction Change Directive executed in accordance with the requirements of the Design-Build Contract. No officer, employee, or agent of the Owner is authorized to direct any extra or change in the Work through verbal order, nor is the Design-Builder authorized to proceed with any Work upon verbal order that results in a modification to the Contract Sum or Contract Time.

3.2.2 A Construction Change Directive is a written order prepared by the Owner, directing a change in the Work prior to an agreement on adjustment, if any, in the Contract Sum or Contract Time, or both. The Owner may by Construction Change Directive, without invalidating the Design-Build Contract, order changes in the Work within the general scope of the Design-Build Documents consisting of additions, deletions or other revisions, the Contract Sum and Contract Time being adjusted accordingly in accordance with the Design-Build Documents.

3.2.3 A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

3.2.4 If the Construction Change Directive provides for an adjustment to the Contract Sum, the adjustment shall be based on one of the following methods:

- (a) Mutual agreement on a lump sum, supported by detailed itemization and substantiating data for evaluation;

- (b) Unit prices specified in the Design-Build Documents or subsequently agreed upon in writing;
- (c) Actual Cost of the Work plus a single markup not exceeding Five percent (5%) of the Cost of the Work or a mutually agreed fixed fee; or
- (d) As outlined in Article 8 below.

3.2.5 Upon receipt of a Construction Change Directive, the Design-Builder shall promptly proceed with the change in the Work involved. Failure to do so shall constitute a breach of the Design-Build Contract and a default triggering the obligations of Design-Builder's performance bond surety, if any. Within three (3) days, the Design-Builder shall inform the Owner of their agreement or disagreement with the proposed adjustment method. If there is no response or disagreement within this timeframe, the Owner shall determine the method and adjustment based on reasonable expenditures and savings from the Work change based on one of the methods set forth in Section 3.2.4 above. Disputes regarding these adjustments shall follow the procedures outlined in Article 8 for resolution. If a resolution cannot be reached through these procedures, the Owner shall have the authority to determine the method and the adjustment based on reasonable expenditures and savings attributable to the change in the Work.

3.2.6 Failure of the Design-Builder and the Owner to agree on an adjustment of the Contract Sum or the Contract Time shall not excuse the Design-Builder for proceeding with the prosecution and performance of Work affected by the Construction Change Directive. The Design-Builder shall handle all disputes in a manner that allows Work to continue according to the schedule while the dispute is being resolved. The Design-Builder shall also ensure that its Subcontractors and Vendors handle all disputes in a manner that permits Work to proceed on schedule during the resolution of the dispute.

3.2.7 A Construction Change Directive signed by the Design-Builder indicates the agreement of the Design-Builder therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded formally as a Change Order.

3.2.8 Until a Change Order has been executed indicating agreement on part or all of the costs for changes in the Work, no amounts related to any

changes in the Work shall be included in Applications for Payment, including amounts not in dispute.

3.2.9 When the Owner and Design-Builder reach agreement concerning the adjustments in the Contract Sum or Contract Time, such agreement shall be effective immediately and recorded formally as a Change Order.

3.2.10 Additional Provisions for Adjustments.

- (a) Notwithstanding anything to the contrary, the Design-Builder shall not be entitled to any adjustment to the Contract Sum attributable to a change in the Work (including an increase in the Design-Builder Fee, if any) until the cumulative value of accepted Change Orders exceeds five percent (5%) of the Guaranteed Maximum Price. Once the cumulative value of accepted Change Orders exceeds this threshold, the adjustment to the Contract Sum shall include the full value of all accepted Change Orders, including those previously issued but not yet adjusted. For any accepted Change Orders below the 5% threshold, the Owner agrees to issue an adjustment to the Contract Sum no later than 90 calendar days after Owner's written acceptance, regardless of whether the cumulative threshold has been met. Owner reserves the right to convert the Cost of the Work plus adjustment to a lump sum upon Owner's acceptance at Owner's sole discretion.
- (b) No Mark-up on Bonds and Liability Insurance Costs: Change Order cost adjustments due increases or decreases in bond or insurance costs (if applicable) shall not be subject to any markup. In the event the Design-Builder has been required to furnish comprehensive insurance and/or bonds in relation to the Contract Sum, a final Change Order will be processed to account for the Design-Builder's actual net increase or decrease in insurance or bond cost associated with Change Orders.
- (c) Contingency: In no event shall any increase for the Construction Contingency be allowed to be added as a separate line item in Change Orders.
- (d) Accurate Change Order Pricing Information: Design-Builder (on behalf of itself and all of its Subcontractors or Vendors of any tier)

agrees to provide precise cost and pricing data to support Change Order proposals or other price adjustments under the Design-Build Contract. Design-Builder further agrees to submit Change Orders with cost and pricing data which is accurate, complete, current, and in accordance with the terms of the Design-Build Contract with respect to pricing and adjustment of Change Orders. Design-Builder agrees that any “buy-out savings,” defined as negotiated savings with a Subcontractor or Vendor after approval of the Change Order amount, on Change Orders shall accrue 100% to Owner.

3.3 MINOR CHANGES IN THE WORK

3.3.1 The Owner shall have authority to order minor changes in the Work not involving adjustment in the Contract Sum or extension of the Contract Time and not inconsistent with the intent of the Design-Build Documents. Such changes shall be effected by written order and shall be binding on the Design-Builder. The Design-Builder shall carry out such written orders promptly.

3.4 SUBSTITUTION OF MATERIAL OR EQUIPMENT

3.4.1 The Design-Builder may request approval of a substitution of specified materials or equipment by submitting a Change Order proposal which shall include a description of the material or equipment to be substituted and of the material or equipment required by the Design-Build Documents with reference to the sections requiring the material or equipment. By requesting approval of a substitution of a specified material or equipment, the Design-Builder represents that:

- (a) the Design-Builder has personally investigated the proposed material and determined that it is equal or superior in all respects to that specified and will provide a more economical result without compromising quality or a higher quality result without a net increase in costs;
- (b) the Design-Builder will provide the same or better warranty for the substitution than for the material initially specified;
- (c) the cost data presented is complete and includes all related costs including the Design Professional’s review and redesign

costs, and waives all claims for additional costs related to the substitution which subsequently become apparent; and

- (d) the Design-Builder will coordinate the installation of the accepted substitute making such changes as may be required for the Work to be complete in all respects.

3.4.2 The above representations are a condition precedent to approval of any request for substitution, but the Owner shall not be required to approve the substitution because of such representations. The Owner shall not accept any substitution unless the Design-Builder accepts responsibility for the substitution by incorporating the substitution in the Design-Build Documents. If the Design-Build proposes a substitution that does not satisfy the requirements of Section 3.4.1 above, the Design-Builder shall be responsible for all costs incurred by the Owner in reviewing the request, including without limitation the cost of the design review, whether or not the Owner accepts the proposed substitution.

ARTICLE 4 **PAYMENTS AND COMPLETION**

4.1 SUBSTANTIAL COMPLETION

4.1.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in compliance with the Design-Build Documents so that the Owner can occupy or use the Work for its intended use. The Work will not be considered ready for Substantial Completion if any of the following conditions exist:

- (a) Excessive punch list work remains to be completed that would prevent or interfere with the occupancy and intended use of the Project or facility in Owner’s reasonable judgment.
- (b) Incomplete or defective work remains which would prevent or interfere with the occupancy and intended use of the Project or facility.
- (c) The building mechanical systems have not been tested, balanced, and accepted as being fully complete.
- (d) The building electrical and life safety systems have not been tested and accepted as being fully complete.
- (e) The building commissioning process is not complete.

- (f) Final clean-up is not complete to support the occupancy and intended use of the Project or facility, outside of clean-up associated with punch list items to be completed (outside of cleaning as an item on the punch list).
- (g) Final inspection, approvals and temporary or full Certificates of Occupancy by regulatory officials are not received and complete.
- (h) Successful and compliant testing of all data cabling (copper, fiber or other) and labeling of all data ports is incomplete and not fully correct.
- (i) Any other material issue impacting the intended use or occupancy of the Project.

4.1.2 When the Design-Builder considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete and it has received all inspections and regulatory approvals to permit occupancy, the Design-Builder shall prepare and submit to the Owner a comprehensive list of items to be completed, corrected or repaired prior to final payment. Failure to include an item on such list does not alter the responsibility of the Design-Builder to complete, correct or repair all Work in accordance and/or compliance with the Design-Build Documents.

4.1.3 Upon receipt of the Design-Builder's list, the Owner shall make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Owner's inspection discloses any item, whether or not included on the Design-Builder's list, that will not allow the Owner to occupy or utilize the Work for its intended use, the Design-Builder shall complete, correct or repair such item upon notification by the Owner, but no later than thirty (30) days after such notification, unless the parties mutually agree on a different timeframe. In such case, the Design-Builder shall then submit a request for another inspection by the Owner to determine whether the Design-Builder's Work is substantially complete.

4.1.4 When the Work or designated portion thereof is substantially complete, the Design-Builder shall prepare for the Owner's signature an Acknowledgement of Substantial Completion which, when signed by the Owner, shall establish (a) the date of Substantial Completion of the Work, (b) responsibilities between the Owner and Design-Builder for security, maintenance, heat, utilities, damage to the Work and insurance, and (c) the time within which the Design-Builder shall finish all items on the list accompanying the Acknowledgement,

which such time shall not exceed thirty (30) days from the date of Substantial Completion, unless the parties mutually agree on a different timeframe. The parties agree that the items on the list accompanying the Acknowledgement (i.e., items that are necessary to achieve final completion), shall be completed within thirty (30) days of Substantial Completion, unless the parties mutually agree on a different timeframe.

4.1.5 Upon execution of the Acknowledgement of Substantial Completion and consent of surety, if any, the Owner shall make payment of retainage applying to such Work or designated portion thereof.

4.2 PARTIAL OCCUPANCY OR USE

4.2.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Design-Builder, provided such occupancy or use is consented to by the insurer, if so required by the insurer, which such consent should not be unreasonably withheld, and authorized by public authorities having jurisdiction over the Work. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Design-Builder have accepted in writing the responsibilities assigned to each of them for security, maintenance, heat, utilities, and insurance. When the Design-Builder considers a portion substantially complete, the Design-Builder shall prepare and submit a list to the Owner as provided under Section 4.1 above. Consent of the Design-Builder to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Design-Builder.

4.2.2 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Design-Build Documents.

4.3 FINAL COMPLETION AND FINAL PAYMENT

4.3.1 Upon receipt of written notice from the Design-Builder that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Owner shall promptly inspect the Work. The final Application for Payment shall include any amounts due to Design-Builder relating to sharing in savings in the Cost of Work as provided in the Design-

Build Documents. All sharing provisions shall require adjustment by written Change Order prior to final payment. Final Completion and Final Payment are subject to completion of all notices of retention releases, notices/certificates of completion, and related processes.

4.3.2 Neither final payment nor any remaining retained percentage will become due until the Design-Builder fulfills all obligations under the Design-Build Contract, exclusive of Subcontractor's obligations under Article 12 of the Agreement, including but not limited to:

- (a) Design-Builder's final affidavit, release of claims, and waiver of lien;
- (b) Such evidence as Owner may reasonably require to show that all labor and material accounts incurred by Design-Builder in connection with its Work have been paid in full;
- (c) Such evidence as Owner may reasonably require to show that all items on Owner's punch list have been completed in full;
- (d) All operating and maintenance instructions, schedules, guarantees, bonds, certificates or other evidence of insurance, certificates of inspection, documents, and training as required by the Design-Build Documents;
- (e) Warranty forms as required by the Design-Build Documents;
- (f) Vendor lien releases, if required;
- (g) Subcontractor lien releases, if required;
- (h) Execution of all outstanding Change Orders;
- (i) Final consent of surety, if required; and
- (j) As-Built drawings in digital and hard copy format submitted to the Owner and are accepted as complete.

If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Design-Builder may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien. If such lien remains unsatisfied after payments are made, the Design-Builder shall refund to the Owner all money that the Owner may be compelled to pay in connection with the discharge of such lien, including all costs and reasonable attorneys' fees.

4.3.3 The Work is complete (subject to surviving obligations) when it is ready for final payment.

4.3.4 Acceptance of final payment by the Design-Builder shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

ARTICLE 5

PROTECTION OF PERSONS AND PROPERTY

5.1 SAFETY PRECAUTIONS AND PROGRAMS

5.1.1 The Design-Builder shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the Design-Build Contract. This requirement applies continuously twenty-four (24) hours a day and is in no way limited to normal working or business hours.

5.2 SAFETY OF PERSONS AND PROPERTY

5.2.1 The Design-Builder shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury or loss to:

- (a) employees on site performing the Work and other persons who may be affected thereby;
- (b) the Work and materials and equipment to be incorporated therein, whether in storage on or off the site or under the care, custody or control of the Design-Builder or the Design-Builder's Subcontractors or Vendors; and
- (c) other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.

5.2.2 The Design-Builder shall give notices and comply with applicable laws, ordinances, rules, regulations and lawful orders of public authorities bearing on safety of persons or property or their protection from damage, injury or loss.

5.2.3 The Design-Builder shall erect and maintain, as required by existing conditions and performance of the Design-Build Documents, reasonable safeguards for safety and protection, including but not limited to, posting danger signs and other warnings against hazards, promulgating safety regulations and notifying owners and users of adjacent sites and utilities or any dangers or hazards. Such notice does not relieve the Design-Builder of responsibility for any damages, claims and defense of all actions against the Owner

resulting from the performance of such Work in connection with or arising out of the Design-Build Contract.

5.2.4 When use or storage of explosives or other hazardous materials or equipment, driving or removal of piles, wrecking, excavation work, or other similar potentially dangerous work is necessary to perform the Work or unusual methods are necessary for execution of the Work, the Design-Builder shall exercise utmost care as to not endanger life or property, and carry on such activities under supervision of properly qualified personnel. The Design-Builder is fully responsible for any and all damages, claims, and defense of all actions against the Owner resulting from the prosecution or performance of such Work. Use or storage of explosives is strictly prohibited by the Owner.

5.2.5 The Design-Builder shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Design-Build Documents) to property referred to in Sections 5.2.1(b) and 5.2.1(c) caused in whole or in part by the Design-Builder, its Subcontractors, Vendors, or anyone directly or indirectly employed by any of them or by anyone for whose acts they may be liable. The foregoing obligations of the Design-Builder are in addition to the Design-Builder's indemnification and other obligations under the Design-Build Contract.

5.2.6 The Design-Builder shall not load or permit any part of the construction or site to be loaded so as to endanger its safety of persons or property.

5.2.7 The Owner's review of the Design-Builder's performance does not include a review of the adequacy of the Design-Builder's safety measure.

5.2.8 All parts of the Work shall be braced to resist wind or other forces or loads. The Design-Builder shall perform the Work with the explicit understanding that the design of the Project is based on all parts of the Work having been completed and as such, the methods of performance of each part of the Work shall be done accordingly.

5.2.9 Temporary items such as, but not limited to, scaffolding, staging, lifting and hoisting devices, shoring, trenching, excavation, barricades, and safety and construction procedures necessary in the completion of the Project shall be the responsibility of the Design-Builder and shall comply with all applicable federal, state, and local laws, codes,

ordinances, rules, and regulations. It shall not be the responsibility of the Owner, its employees, agents or representatives to determine if the Design-Builder, its Subcontractors, or their employees, agents, or representatives are in compliance with the aforementioned laws, codes, ordinances, rules, and regulations.

5.2.10 The Design-Builder shall be responsible for all fines, penalties, or charges by or of any regulatory agency or body by reason of any violation of any safety or health regulation.

5.3 HAZARDOUS MATERIALS

5.3.1 The Design-Builder is responsible for compliance with any requirements included in the Design-Build Documents and all applicable law, rules and regulations regarding hazardous materials. If the Design-Builder encounters a hazardous material or substance not addressed in the Design-Build Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Design-Builder, the Design-Builder shall, upon recognizing the condition, immediately stop Work in the affected area and report the condition to the Owner. The Design-Builder shall indemnify the Owner for the cost and expense the Owner incurs (1) for remediation of a material or substance the Design-Builder brings to the site and negligently handles, or (2) where the Design-Builder fails to perform its obligations herein, except to the extent that the cost and expense are due to the Owner's gross negligence. The Design-Builder shall provide the Owner with notice of all hazardous substances as regulated by the Comprehensive Environmental Response, Compensation, and Liability Act and regulated under any other applicable law which Design-Builder brings on the site.

5.3.2 The Owner shall not be responsible for materials and substances brought to the site by the Design-Builder.

5.3.3 Design-Builder shall be responsible to provide Design-Build Documents that use materials and substances, where feasible to accomplish the Work, that are not hazardous materials or substances, and this shall be verified and alternate recommendations provided through the submittal and shop drawing

process, and through the Design-Builder's review of and plans for their means and methods to accomplish the Work. Design-Builder shall be responsible to be knowledgeable about the proper handling and sue requirements/practices for any such substances and shall administer the use and handling of such substances and materials accordingly.

ARTICLE 6 INSURANCE AND BONDS

6.1 The Design-Builder shall not commence any Work prior to the effective date of the insurance required by the Design-Build Contract, to be furnished by the Design-Builder or Owner. The date of commencement of the Work shall not be changed by the effective date of such insurance.

6.1.1 The Design-Builder shall obtain and maintain, the following types and minimum limits of insurance coverage written on an occurrence basis by a carrier with AM Best rating of "A minus" or better and authorized to do business in the State of California. The required insurance shall be submitted to the Owner and accepted prior to the issuance of a Notice to Proceed, and shall be in effect by the Design-Builder on or prior to the issuance of a Notice to Proceed.

6.2 DESIGN BUILDER'S LIABILITY INSURANCE

6.2.1 The Design-Builder shall obtain and maintain, during the life of the Design-Build Contract (and for the full period of the applicable statutes of limitation and repose, whichever is larger, in the case of completed operations coverage), such insurance, with coverages in the amounts set forth herein, as will protect the Design-Builder and Owner from claims that may arise out of or result from the Design-Builder's operations under the Design-Build Contract and for which the Design-Builder may be legally liable, whether such operations be by the Design-Builder, its Subcontractors or anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable.

6.2.1.1 Commercial General liability. Commercial General liability insurance legal liability and completed operations/products liability, covering occurrences within the policy period, with minimum general aggregate limits of in the amount of \$1,000,000 per occurrence and \$2,000,000 annual

aggregate. The policy shall be endorsed to include aggregate limits applied per project. The policy shall name the Owner and its officers, directors, agents, employees, and assigns as an additional insureds.

6.2.1.2 Automobile Liability Insurance. Design-Builder shall carry automobile liability insurance, including coverage for all owned, hired and non-owned automobiles. The limits of liability shall be not less than \$1,000,000 combined single limit each accident for bodily injury and property damage. The policy shall name the Owner and its officers, directors, agents, employees, and assigns as an additional insureds.

6.2.1.3 Worker's Compensation and Employer's Liability Insurance. Worker's Compensation insurance shall be provided as required by any applicable law or regulation. Employer's Liability insurance shall be provided in amounts not less than \$1,000,000 per occurrence and \$1,000,000 per employee.

6.2.1.4 Umbrella Insurance. Umbrella form excess liability insurance on an occurrence basis with minimum limits of \$6,000,000 per occurrence, and \$6,000,000 in the aggregate. The umbrella policy must follow form of the Commercial General liability policy. The policy shall name the Owner and its officers, directors, agents, employees, and assigns as an additional insureds.

6.2.1.5 Professional Liability (Errors and Omissions). The Design-Builder shall maintain, through the Design Professionals, professional liability/errors and omissions insurance coverage with limits of not less than \$2,000,000 per occurrence and \$3,000,000 annual aggregate, with no claim deductible. This coverage shall continue through the completion of construction and for at least five (5) years thereafter. The policy shall not contain any provision or exclusion, including any "insured versus insured" or "cross-liability" exclusions, that would prevent, bar, or preclude the Owner or the Design-Builder from making a claim otherwise covered by the policy, on the grounds that the claim is brought by an insured or additional insured against another insured or additional insured under the policy. Notwithstanding Section 6.1.1 above, if coverage is provided on a claims-made policy, Design-Builder shall maintain continuous coverage by either obtaining "tail" insurance from the preceding carrier or "nose" coverage from the subsequent carrier. This continuous

coverage must be maintained through the term of the Design-Build Contract, including any extensions or renewals, and for a period of not less than five (5) years after the completion of construction.

6.2.2 Subcontractor Insurance. All Subcontractors and Design Professionals shall maintain the same insurance as required of the Design-Builder as set forth herein, including but not limited to the types of insurance, extent and durations of coverages, and notice requirements. The requirement for umbrella (excess liability) insurance at Section 6.2.1.4 may be waived for certain Subcontractors performing lower-risk tasks. This waiver is at the discretion of the Design-Builder, provided that the Subcontractor's primary insurance coverage limits are deemed sufficient to cover the risks associated with their scope of work on the Project. In no event shall the insurance requirements be deemed to limit the liability or responsibility of Design-Builder or any of its Subcontractors and Design Professionals to Owner. Design-Builder shall require all tiers of Subcontractors and Design Professionals to waive the rights of recovery against Owner, its officers, directors, agents, employees, and assigns. Design-Builder shall be responsible for any loss resulting from the failure of any Subcontractors and Design Professionals to maintain sufficient insurance.

6.2.3 The Design-Builder shall cause each liability insurance policy required by the Design-Build Contract, except for workers' compensation and professional liability insurance at Section 6.2.1.3 and Section 6.2.1.5, to name the Owner as additional insureds. This shall be evidenced by Design-Builder providing a copy of the endorsement from the insurer, to be supplied with Design-Builder's insurance certificate.

6.2.4 Notice of Cancellation, Reduction or Expiration. The insurance policies required by the Design-Build Documents shall be endorsed to include a covenant that coverages or limits afforded under the policies will not be canceled, reduced or allowed to expire until at least 30 days' prior written notice has been given to Owner. Design-Builder shall give immediate written notice to Owner upon learning that their coverages may be cancelled, reduced or their limits impaired by claims. Design-Builder will procure at Design-Builder's sole expense, other policies of insurance that meet all requirements of the Design-Build Contract as soon as possible.

6.2.5 Certificates and Certified Copies of Policies.

Certificates of insurance and copies of all endorsements necessary to evidence compliance with all insurance requirements shall be filed with the Owner prior to commencement of the Work. However, failure to do so shall not operate as a waiver of these insurance requirements. The Certificates and endorsements shall also state the deductible or self-insured retention level. For insurance coverages that are required to remain in force after Final Completion, additional certificate evidencing continuation of such coverage shall be submitted as part of the application for final payment and upon each annual renewal for the duration of coverage required. Upon Owner's request at any time, Design-Builder will immediately provide an actual certified copy of its insurance policies. Provision of the certificates and copies of policies as required herein will be a condition precedent to payment. This provision shall survive termination, suspension, cancellation, or expiration of the Design-Build Contract of the Design-Build Contract.

6.2.6 Insurance In Excess of Requirements. In the event Design-Builder purchases insurance in excess of the coverages or limits required under the Contract, such excess coverages or limits shall apply to the Project and inure to the benefit of Owner.

6.2.7 No Waiver by Owner. The insurance requirements under the Design-Build Contract can only be waived or modified by Owner by an express written instrument signed by Owner acknowledging the reduced coverages or limits. No other act or omission by Owner or its representatives, including but not limited to (i) implicit or verbal acceptance or approval of reduced coverages or limits or (ii) failure to require proof of compliant insurance, will amount to Owner's waiver of the insurance requirements of the Contract.

6.2.8 The insurance required by this Article 6 shall be primary and non-contributory with respect to any other insurance available to Owner. Design-Builder shall have the insurance policy endorsed to reflect that the insurance coverage is primary over any other applicable insurance coverage available and providing that such insurance is primary insurance as respects the interests of the Owner and that any other insurance maintained by the Owner is excess and not contributing insurance.

6.2.9 Loss Payee. Owner shall be named as loss payee with respects their interest in any property that the Design-Builder has an obligation to insure on behalf of Owner.

6.2.10 Waivers. Any policy of insurance issued pursuant to Article 6 shall include an endorsement providing that the underwriters waive any and all rights of subrogation against the Owner and its officers, directors, agents, employees and assigns of each. The Design-Builder hereby waives, and it shall require its Subcontractor to waive, any and all rights of recovery or subrogation which they or any of them may now or subsequently have against the Owner and its officers, directors, agents, employees, and assigns, in connection with any losses covered by insurance provided hereunder.

6.2.11 The Design-Builder shall make available to the Owner, upon request by the Owner, at Design-Builder's expense a copy of each policy and/or loss history related to insurance coverage required by this Article 6. Each policy shall contain all generally applicable conditions, definitions, exclusions and endorsements related to this Project.

6.3 If the Owner is damaged by the failure of Design-Builder to purchase, cause to be purchased, or maintain insurance required under Article 6, then the Design-Builder shall bear all reasonable costs including, but not limited to, attorneys' fees, and any other expenses properly attributable thereto. The Design-Builder shall also indemnify and hold the Owner harmless from any claims, liabilities, damages, or losses arising from such failure.

6.4 PROPERTY INSURANCE

6.4.1 Unless otherwise provided, the Owner shall purchase and maintain, in a carrier lawfully authorized to do business in the State of California, property insurance written on a builder's risk "all-risk" or equivalent policy form in the amount of the initial Contract Sum. Such property insurance shall be maintained until occupancy is signed off by the parties. This insurance shall include interests of the Owner, the Design-Builder, and Subcontractors.

6.4.1.1 If the property insurance requires deductibles, the Owner shall pay costs of such deductibles.

6.4.1.2 The Owner, as loss payee, shall have the power to adjust and settle a loss with insurers. The Owner, as

loss payee, shall make settlement with insurers in accordance with the directions of any decision or award. If the distribution of insurance proceeds by arbitration is required, the arbitrators will direct such distribution.

6.4.1.3 A loss insured under the Owner's all-risk policy shall be adjusted by the Owner and made payable to the Owner. The Owner shall deposit the proceeds received into a separate account. The Owner shall distribute the proceeds in accordance with an agreement reached by the parties in interest. If the parties in interest fail to reach an agreement within a reasonable time, the Owner shall have the sole discretion to distribute the proceeds in a manner it deems equitable and appropriate, considering the interests of all parties.

~~**6.4.2 Boiler and Machinery Insurance.** The Design-Builder shall purchase and maintain boiler and machinery insurance, which shall specifically cover such insured objects including but not limited to machinery, equipment, and other similar property during installation and until final acceptance by the Owner; this insurance shall include interests of the Owner, Design-Builder, and Subcontractors in the Work and be at least in the amount of the actual cash value of the machinery, equipment, and/or property being installed, and the Owner and Design-Builder shall be named insureds.~~

6.4.3 Design-Builder's Property. The Design-Builder shall be responsible for and shall bear the risk of loss and damage to any property, including but not limited to (a) tools and equipment of the Design-Builder (owned or rented) and (b) any property for which it is responsible or that is in its care, custody, and control, wherever located.

~~**6.4.4 Transit Insurance.** Where the Design-Builder has responsibility to coordinate the transportation of construction materials (whether ocean, air, or inland transit), the Design-Builder shall bear responsibility for providing transit coverage on an all-risk basis, including lightering operations, loading and unloading at each point of delivery, including the final destination, unless the total risk of loss in transit is borne by the shipper or supplier. Such coverage shall provide a limit of full replacement value of each conveyance. Any marine inspections and/or survey fees under this coverage shall be for the account of the Design-Builder.~~

6.5 PERFORMANCE BOND AND PAYMENT BOND

6.5.1 The Design-Builder shall furnish bonds covering faithful performance and completion of the Design-Build Contract and payment of obligations arising thereunder as specifically required herein on the date of execution of the Agreement unless the Owner grants an extension of time in writing, not to exceed fifteen (15) days from the date of execution of the Agreement, for reasons determined adequate at Owner's sole discretion. The failure of the Design-Builder to furnish the required bonds shall constitute a default and cause for termination in accordance with this General Conditions of Contract.

6.5.1.1 The Design-Builder shall furnish the requisite surety bonds in two (2) copies, simultaneously with execution of the Agreement and before commencing any Work, on forms acceptable to the Owner. These bonds shall be maintained for the life of the Design-Build Contract and one year after the date of filing of the Notice of Completion. The Design-Builder shall provide surety bonds as follow:

- (a) Performance Bond in the amount of 100% of the total Contract Sum.
- (b) Payment Bond (Labor & Material) in the amount of 100% of the total Contract Sum.

The Design-Builder shall increase the Performance and Payment Bond to accommodate Change Orders.

6.5.1.2 The Design-Builder shall execute a Performance and Payment Bond on a form acceptable to the Owner covering the faithful performance and completion of the Contract and the payment of all obligations arising thereunder.

6.5.1.3 The Surety shall be written by a company with A-rating or better in the most recent edition of "Best's Insurance Guide" (or such lesser rating as may be approved by Owner in writing), authorized to do business in the State of California, and shall be satisfactory to the Owner.

6.5.1.4 If at any time the Owner, for justifiable cause, shall be or become dissatisfied with any surety as providers of the required Performance Bond or the Payment Bond, the Design-Builder shall within five calendar days after being notified by the Owner, substitute an acceptable bond in the form and sum and signed by such other surety as may be satisfactory to

the Owner. No further progress payments to the Design-Builder shall be deemed due or payable until acceptable bonds are furnished. The new bond amount shall be for the remaining balance of the Design-Build Contract. In the event that the Design-Builder is unable to obtain a new bond and reduce the Guaranteed Maximum Price accordingly. Owner shall have the right to demand reimbursement for any cost or automatically deduct the cost of the bond from the Cost of the Work without a Change Order. The new bond amount shall be for the remaining balance of the Design-Build Contract. If the Performance and Payment Bond is not furnished within the time specified in the Design-Build Documents after the Design-Build Contract is awarded, any bonds may be forfeited and the Design-Build Contract may be awarded to an alternate proposal.

6.5.1.5 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Design-Build Contract, the Design-Builder shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.

6.5.1.6 The Design-Builder shall keep the surety informed of the progress of the Work, and where necessary, obtain the surety's consent to, or waiver of: (1) notice of changes of the Work, (2) request for reduction or release of retention, (3) request for final payment, and (4) any other material required by the surety. The Owner shall be notified by the Design-Builder, in writing, of all communications with the surety. The Owner may, in the Owner's sole discretion, inform surety of the progress of the Work and obtain consents as necessary to protect the Owner's rights, interest, privileges and benefits under and pursuant to any bond issued in connection with the Project.

ARTICLE 7 UNCOVERING AND CORRECTION OF WORK

7.1 UNCOVERING OF WORK

7.1.1 If a portion of the Work is covered contrary to the Owner's or a governmental or public authority's request, or to requirements specifically expressed in the Design-Build Documents or by law, it must be uncovered for the Owner's examination and be replaced at the Design-Builder's sole cost and expense without change to or addition in the Contract Time.

7.1.2 If a portion of the Work has been concealed, and the Owner or a governmental/public authority did not request prior examination or if examination was not mandated by the Design-Build Documents or law, the Owner may request to inspect the concealed part. In such cases, the Design-Builder must uncover the Work, and any costs incurred for uncovering and replacement will be covered, by appropriate Change Order, at the Owner's expense.

7.2 CORRECTION OF WORK

7.2.1 The Design-Builder shall promptly correct any Work rejected by the Owner or any work failing to conform to the requirements of the Design-Build Documents, whether discovered before or after Substantial Completion and regardless of fabrication, installation, or completion status. The costs associated with correcting such nonconforming Work, including additional testing, inspections, uncovering, replacement, and compensation for the Owner's or Owner's consultant's services and expenses necessary for such corrections, shall be borne by the Design-Builder. All Work must be completed in compliance with the terms and conditions of the Design-Build Contract or as approved by the Owner.

7.2.2 In addition to the Design-Builder's obligations under Article 12 of the Agreement, if any of the Work does not conform to the requirements of the Design-Build Contract, the Design-Builder shall promptly correct it upon receipt of written notice from the Owner. The Owner shall provide such notice promptly after discovering the nonconforming condition. If the Design-Builder fails to correct nonconforming Work within the timeframe outlined in Section 12.2 of the Agreement, the Owner may, at its discretion, correct the nonconforming Work at the Design-Builder's expense. The Design-Builder shall reimburse the Owner for all correction and related remediation costs, including compensation for the Owner's and Owner's consultant's services and expenses incurred due to such corrections, within fifteen (15) days upon receipt of a written demand from the Owner. Additionally, the Owner may dispose of any materials or equipment related to the nonconforming Work as determined by the Owner based on practical and cost-effective approaches. Failure to promptly reimburse the Owner for the incurred costs may result in the Owner pursuing legal remedies for collection, with the Design-Builder liable for all associated costs, including reasonable attorney's fees. The Owner may also offset these costs

against any payments due to the Design-Builder under the Design-Build Contract.

7.3 ACCEPTANCE OF NONCONFORMING WORK

7.3.1. Owner may, in its sole discretion, elect to accept a part of the Work which is not in accordance with the requirements of the Design-Build Documents. In such case, the Guaranteed Maximum Price shall be reduced as appropriate and equitable. Owner's acceptance of any non-conforming Work shall not waive or otherwise affect Owner's right to demand that Design-Builder correct any other defects or areas of non-conforming Work.

ARTICLE 8 CLAIMS AND DISPUTE RESOLUTION

8.1 A Claim is any demand, contention, or assertion by Design-Builder seeking additional time or money under the terms of the Design-Build Contract. Claims by Design-Builder must be made in writing as specified herein. Claims from Design-Builder must contain all of the following:

- (a) a narrative statement referencing and attaching the supporting documentation and specifically describing the legal, factual, and contractual basis of the Claim;
- (b) if the Claim alleges delay to the Work, the Claim must include the precise number of days claimed, all alleged impacts, financial or otherwise, on the Work, and the specific amount of money, if any, claimed as a result of the delay as well as a detailed critical path as-built schedule analysis illustrating that the delays claimed were on the critical path of the Project;
- (c) if the Claim alleges acceleration or constructive acceleration of the Work, the Claim must include the precise number of days' time extension Design-Builder contends Design-Builder would have been entitled to receive, but for the acceleration, and the precise number of days by which the Work has been accelerated. No Claims for acceleration for Work that is not on the critical path shall be permitted. Claims for acceleration must be accompanied by a detailed CPM analysis. Claims for

acceleration shall be limited to the premium portion of labor costs incurred for overtime.

- (d) if the Claim is for additional compensation, the Claim must include a detailed calculation of the precise amount claimed with all supporting documentation. All Claims must reference the specific contract provisions relied upon to support the Claim. All Claims must specifically reference, by name, this Section 8.1 and the fact that the Claim is being submitted under this Section 8.1. Any writing or other form of notice, however designated, which fails to specifically reference this Section 8.1, by name, shall not be deemed to constitute a valid Claim hereunder.

Sections 8.1(a)-(d) above shall hereinafter be referred to as the “Final Accounting.”

8.2 An initial written notice of Design-Builder’s intent to assert a Claim (the “Initial Notice”) must be made in writing within three (3) days after the occurrence of the event giving rise to the Claim or the right to submit a Claim is waived. The Design-Builder shall submit all information reasonably available to the Design-Builder that is otherwise required in the Final Accounting at the time of the Initial Notice.

8.3 Within fourteen (14) days after the conclusion of the event giving rise to the Claim, Design-Builder shall provide the Final Accounting. Failure to timely provide the Final Accounting shall constitute a waiver of the Claim. Any waiver by the Owner of the notice requirements for the Initial Notice or the Final Accounting for a single Claim, event, or occurrence shall not constitute a waiver of these notice requirements for any other Claim, event, or occurrence. Each request for time or money by Design-Builder shall be considered a separate Claim. All information required in the Final Accounting must be submitted within the time limits established herein, and no supplementation of the information shall be permitted. Any attempted reservation of the right to submit or supplement an earlier made Claim shall be void.

8.4 Upon written request, the parties may agree to participate in non-binding mediation. If the parties proceed with mediation, they shall share the costs associated with the mediation process. The parties shall mutually select a qualified and neutral mediator.

In the event the parties are unable to agree on a mediator within fourteen (14) business days, the mediation process shall be considered canceled.

8.5 Design-Builder agrees that nothing contained herein shall excuse Design-Builder from proceeding promptly with the Work or any Construction Change Directive provided to Design-Builder notwithstanding the existence of Claims or disputes. Refusal by Design-Builder to proceed with either the Work or any Construction Change Directive of Owner shall constitute a material breach and default of the Design-Build Contract.

ARTICLE 9
**CONTINGENT ASSIGNMENT OF CONTRACT S;
CONTRACTUAL RELATIONS**

9.1
CONTINGENT ASSIGNMENT OF CONTRACT S

9.1.1 The Design-Builder shall provide copies of its contracts, agreements, and current information on the status of its accounts, upon the Owner’s written request. Each contract, agreement, and purchase order related to the Work shall provide that it is freely assignable by the Design-Builder to the Owner and its assigns.

9.1.2 In the event that the Owner terminates the Design-Build Contract for reasons other than convenience, the Design-Builder shall provide a list of its Subcontractors and Vendors and ensure that its agreement with the Subcontractor and Vendor are assignable. Following such termination, the Owner shall notify in writing those Subcontractors or Vendors whose assignments will be accepted, subject to the rights of sureties. Owner shall only be responsible for obligations arising after the effective date of the assignment. The Design-Builder shall indemnify and hold harmless the Owner from any damages caused by the Design-Builder’s failure to ensure that the Subcontractor, including the Design Professional, assumes all responsibilities specified in the Design-Build Contract towards the Design-Builder.

9.2 CONTRACTUAL RELATIONS

9.2.1 The Design-Builder agrees to bind every Subcontractor and Vendor, to all the provisions of the Design-Build Contract relevant to their respective portions of the Work. Failure to fulfill this

responsibility will result in the Design-Builder compensating the Owner for costs and damages that could have been avoided with proper performance. Additionally, the Design-Builder will indemnify and protect the Owner from damages arising due to the Design-Builder's failure to ensure that Subcontractors or Vendors assume all obligations and responsibilities specified in the Design-Build Contract towards the Design-Builder.

9.2.2 The Design-Builder is fully responsible and liable for acts and omissions of its Subcontractors and Vendors, and persons or entities either directly or indirectly employed by them, or under their control, as the Design-Builder is for its own employees.

ARTICLE 10 MISCELLANEOUS PROVISIONS

10.1 DEFINITIONS AND INTERPRETATION

10.1.1 Unless otherwise defined herein, all capitalized terms in these General Conditions shall have the same meanings as those assigned to them in the Agreement. In case of any conflict between the definitions provided in the Agreement and those provided herein, the definitions in the Agreement shall prevail.

10.2 ASSIGNMENTS

10.2.1 The Owner may, without consent of the Design-Builder, assign the Design-Build Contract to an institutional lender providing construction financing for the Project. In such event, the lender shall assume the Owner's rights and obligations under the Design-Build Documents. The Design-Builder shall execute all consents reasonably required to facilitate such assignment. Notwithstanding the foregoing, neither the Owner nor the Design-Builder shall assign or sublet the Design-Build Contract or any part thereof, or its right, title, or interest therein, without the consent in writing of the other. If Design-Builder or Owner does, with approval, assign the Design-Build Contract or any part thereof, it shall require that its assignee be bound to and assume toward Design-Builder or Owner all of the obligations and responsibilities that the assignee has assumed.

10.3 WRITTEN NOTICE

10.3.1 Written notice shall be deemed to have been duly served if delivered in person to the Designated

Representative identified in the Design-Build Contract, or if sent by registered or certified mail to or delivered by courier service with return receipt providing proof of delivery to the Designated Representative identified in the Design-Build Contract, or electronic mail (email) to the Designated Representative identified in the Design-Build Contract. If sent by mail, such notices shall be deemed delivered upon delivery or refusal to accept delivery, as indicated on the return receipt. If sent by personal delivery (via overnight courier or otherwise), such notices shall be deemed delivered upon delivery or refusal thereof. If sent by email, such notices shall be deemed delivered upon delivery, provided such email is sent prior to 5:00 p.m. Pacific Time on such date; otherwise, such email shall be deemed delivered and effective as of the next business day.

10.4 RIGHTS AND REMEDIES

10.4.1 Duties and obligations imposed by the Design-Build Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights and remedies otherwise imposed or available by law.

10.4.2 No action or failure to act by the Owner or Design-Builder shall constitute a waiver of a right or duty afforded them under the Design-Build Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed in writing by the parties.

10.4.3 Except as provided for in the Design-Build Contract, pursuit of any remedy provided in the Design-Build Contract shall not preclude pursuit or any other remedies herein provided or any other remedies provided by law or equity, including injunctive relief; nor shall pursuit of any remedy herein provided constitute a forfeiture or waiver of any obligation of the defaulting party hereunder or of any damages accruing by reason of the violation of any of the terms, provisions, and covenants herein contained. No waiver of any term, covenant, condition, or violation of the Design-Build Contract shall be deemed or construed to constitute a waiver of any other violation or breach of any of the terms, provisions, and covenants herein contained, and forbearance to enforce one or more of the remedies herein provided upon an event of default shall not be deemed or construed to constitute a waiver of such default. Any waiver of any provision of the Design-

Build Contract or violation thereof must be by a written instrument executed by the parties.

10.4.4 It is not a waiver or default if the non-defaulting party fails to immediately declare a default or delays in taking any action. The rights and remedies provided by the Design-Build Contract are cumulative, and either party's use of any right or remedy will not preclude or waive its right to use any other remedy. These rights and remedies are in addition to any other rights the parties may have by law, statute, ordinance, or otherwise. Notwithstanding the foregoing, the Design-Builder has a duty to mitigate damages.

10.5 TESTS AND INSPECTIONS

10.5.1 Tests, inspections and approvals of portions of the Work required by the Design-Build Documents or by laws, ordinances, rules, regulations or orders of governmental or public authorities or agencies having jurisdiction shall be made at an appropriate time. Unless otherwise provided, the Design-Builder shall make arrangements for such tests, inspections and approvals with an independent testing laboratory or entity acceptable to the Owner or with the appropriate governmental or public authority or agency, and shall bear all related costs of tests, inspections and approvals unless mutually agreed otherwise in writing by the parties. The Design-Builder shall give timely notice of when and where tests and inspections are to be made so that the Owner may be present for such procedures.

10.5.2 If such procedures for testing, inspection or approval reveal a failure of the portions of the Work to comply with requirements established by the Design-Build Documents, all costs made necessary by such failure, including those of repeated procedures for testing, inspections, and approvals, shall be at the Design-Builder's expense.

10.5.3 Required certificates of testing, inspection or approval shall be secured by the Design-Builder and promptly delivered to the Owner.

10.5.4 The Design-Builder understands and agrees that tests and/or inspections conducted pursuant to the Design-Build Documents shall be performed promptly to avoid unreasonable delay in the Work.

10.6 LIABILITY OF OWNER

10.6.1 Other than as provided in the Design-Build Contract, Owner's obligations under the Design-Build

Contract shall be limited to the payment of the compensation as provided in the Agreement. Notwithstanding any other provision of the Design-Build Contract, in no event shall Owner be liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages arising out of or in connection with the Design-Build Contract.

10.7 COMMENCEMENT OF STATUTORY LIMITATION PERIOD

10.7.1 As between the Owner and Design-Builder, the applicable dates on which the statute of limitations as to any alleged cause of action shall be deemed to have accrued shall be determined by applicable law where the Project is located.

ARTICLE 11 **TERMINATION OR SUSPENSION**

11.1 FAILURE TO PERFORM AND TERMINATION FOR DEFAULT

11.1.1 If the Design-Builder (a) fails or refuses to proceed with or perform the Work in accordance with the Design-Build Documents, (b) fails or refuses to properly perform or abide by any terms, covenants, conditions, or provisions contained in the Design-Build Contract, (c) fails or refuses to comply with laws, ordinances, regulations, or other codes of conduct, or (d) the Owner determines that the Design-Builder has not remedied and cured the defaults as required by the Design-Build Contract, the Owner may terminate the Design-Builder's right to proceed under the Design-Build Contract without releasing or waiving its rights and remedies against the Design-Builder's sureties. This termination shall be without prejudice to any other rights the Owner may be entitled to under the Design-Build Contract or by law. In such a case, the Owner may take possession of the Work and all materials, tools, equipment, and appliances of the Design-Builder, assume assignment of all Design-Builder's subcontracts and purchase orders, and complete the Work by any means, methods, or agency that the Owner, in its sole discretion, chooses.

11.1.2 In the event that Design-Builder's right to proceed has been terminated, Design-Builder agrees that it shall not be entitled to receive any further payment until after the Project has been completed. Moreover, all monies expended and all of the costs, losses, damages and extra expenses, including all management, administrative and other direct and

indirect expenses (including attorneys' fees, filing fees, expert fees, and all other costs and expenses associated with the default) incurred by Owner incident to such default, shall be deducted from the Contract Sum, and if such expenditures, together with said costs, losses, damages and extra expenses, exceed the unpaid balance of the Contract Sum, Design-Builder and its surety agree to pay promptly to Owner, on demand, the full amount of such excess, including without limitation costs of collection, attorneys' fees and interest thereon at the maximum legal rate of interest until paid.

11.1.3 Owner's determination of Design-Builder's default and Owner's decision as to Design-Builder's failure to remedy and cure said default upon notification of their existence, made by Owner under the belief that a default existed under the terms hereof and that Design-Builder failed to remedy and cure said default, shall be conclusive (a) as to Owner's right to proceed as herein provided, and (b) as to Design-Builder's surety's obligation to perform the obligations assumed under Design-Builder's performance or payment bond. The liability of Design-Builder hereunder shall extend to and include the full amount of any and all sums paid, expenses and losses incurred, damages sustained and obligations assumed by Owner under the belief that such payments or assumptions were necessary or required (a) in completion of the Work and in providing labor, materials, equipment, supplies and other items therefor or re-letting the Design-Build Contract and (b) in settlement, discharge or compromise of any claims, demands, suits and judgments pertaining to or arising out of the Work hereunder. A sworn itemized statement thereof or the checks or other evidence of payment shall be prima facie evidence of the fact and extent of Design-Builder's liability.

11.1.4 In the event Design-Builder is in default, Owner shall have the right to supplement Design-Builder's forces without terminating the Design-Build Contract for default and deduct the cost of the same from any amounts otherwise due Design-Builder.

11.2 SUSPENSION BY THE OWNER FOR CONVENIENCE

11.2.1 The Owner may, with or without cause, order the Design-Builder in writing to suspend, delay or interrupt the Work in whole or in part for such period of time as the Owner may, in its sole discretion, determine or deem necessary or appropriate. If the

performance of all or any part of the Work for the Project is so suspended, an adjustment may be considered in accordance with Section 3.2 above. However, no adjustment shall be made to the extent that performance is, was or would have been so suspended, delayed or interrupted by another cause for which the Design-Builder is responsible.

11.3 TERMINATION FOR CONVENIENCE

11.3.1 Owner shall have the right to terminate the Design-Build Contract without cause upon seven (7) calendar days' written notice to Design-Builder.

11.3.2 In the event of termination for the Owner's convenience, the Design-Builder may recover from the Owner payment for Work actually performed by the Design-Builder up to and including the date of termination, and accepted by the Owner pursuant to the Design-Build Contract, together with reimbursable expenses then due, provided that the Design-Builder has delivered to the Owner such statements, accounts, reports, and other materials as required by the Design-Build Contract, along with all reports, documents, and other materials prepared by the Design-Builder's Design Professional prior to termination. The Design-Builder shall not be entitled to any other or further recovery against the Owner, including, but not limited to, anticipated profit on work not performed.

11.3.3 If the Design-Builder's fee is based on a lump sum and upon the Owner's written approval, the Design-Builder's recovery against the Owner shall be limited to that portion of the Contract Sum earned through the date of termination, calculated on a percent complete basis, together with any retainage withheld. The Design-Builder shall not be entitled to any other or further recovery against the Owner, including, but not limited to, anticipated profit on work not performed.

11.4 GENERAL TERMINATION OR SUSPENSION PROVISIONS

11.4.1 Upon receipt of written notice from the Owner of termination for any reason, the Design-Builder shall:

- (a) Cease operations and performance of the Design-Build Contract as directed by the Owner in the notice and take immediate action to mitigate any damage or additional expense;

- (b) Take actions necessary, or that the Owner may direct, for the protection and preservation of the Work;
- (c) Suspend all existing contracts and purchase orders and enter into no further contracts and purchase orders, unless specifically directed otherwise by the Owner in the notice. Design-Builder shall promptly notify Owner of all contracts and purchase orders executing Work directed to be performed prior to the effective date of termination stated in the notice; and
- (d) Make available at no additional charge to the Owner all data, documents, procedures, reports, estimates, summaries, and such other information and materials as may have been accumulated or prepared for by the Design-Builder in performing the Design-Build Contract, whether completed or in process; and the Owner shall have the right to use any such data, documents, procedures, reports, estimates, summaries, and such other information and materials as may have been accumulated or prepared for by the Design-Builder in performing the Design-Build Contract, for the completion of the Project and for information and reference in connection with Owner's use and occupancy of the Project without compensation to the Design-Builder except as otherwise provided in the Design-Build Contract.

11.4.2 Upon notice of termination, suspension, cancellation, or expiration of the Design-Build Contract, the Owner shall immediately have the right to audit any and all records of the Design-Builder relating to the Design-Build Contract. Moreover, upon the termination, suspension, cancellation, or expiration of the Design-Build Contract, the Design-Builder agrees to transition the Work provided under the Design-Build Contract in a cooperative manner and provide anything requested from the Owner at no additional cost, including, but not limited to, the following: (i) All Work and services documentation, including all records, books, and data reasonably related to the Design-Build Contract, maintained in accordance with general accounting procedures and identified in a complete, and orderly manner; (ii) A good faith pledge to cooperate with the Owner upon transition of the Work to another design-builder, the Owner or separate contractors of the Owner; (iii)

Records, books, and data, including electronic data, in a format compatible with the Owner's information technology capabilities, or in a format compatible with a succeeding Design-Builder's or contractor's or separate contractor's information technology capabilities, as determined by the Owner; (iv) Final accounting of all income derived from the Design-Build Contract; (v) Downloading and removal of all the Owner's information from the Design-Builder's equipment and software; and (vi) Removal of the Design-Builder's services without degradation or other adverse effect on the Work. This Section 11.4.2 shall survive termination, suspension, cancellation, or expiration of the Design-Build Contract.

11.4.3 Termination of the Design-Build Contract shall not relieve the Design-Builder or any of its Subcontractors of liability for violations of the Design-Build Contract or for any act or omission, or negligence, of the Design-Builder.

11.4.4 As of the date of any termination of the Design-Build Contract, the Design-Builder shall furnish to Owner all statements, accounts, reports and other materials as are required hereunder or as have been prepared by the Design-Builder in connection with the Design-Builder's responsibilities under the Design-Build Contract.

ARTICLE 12
DISCOUNTS, REBATES AND REFUNDS FOR COST OF WORK ARRANGMENT

12.1 Cash discounts obtained on payments made by the Design-Builder shall accrue to the Owner. Trade discounts, rebates, refunds and amounts received from sales of surplus materials and equipment shall accrue to the Owner, and the Design-Builder shall make provisions so that they can be secured. Amounts that accrue to the Owner in accordance with this provision shall be credited to the Owner as a deduction from the Cost of Work.

12.2 Cost of the Work shall be credited with all insurance policy discounts, performance and payment bond rebates or refunds, refunds or return premiums from any Subcontractor default insurance, refunds or rebates from any Design-Builder controlled insurance programs applicable to the Project, merchandise rebates of any nature, refunds of any nature, insurance dividends; and a portion of any volume rebates or free material credits earned with purchase of material or other goods and services charged to the job.

12.3 “Cash” discounts which may accrue to the Design-Builder will be limited to a maximum of 1% of indirect cost. All “Cash” discounts greater than 1% shall automatically accrue to the Owner if the Design-Builder is eligible to take advantage of the discounts.