

**GOLDEN VALLEY UNIFIED SCHOOL  
DISTRICT**

**37479 Avenue 12, Madera, CA 93636**

**Request for  
Qualifications  
For  
Construction  
Management Services**

Request for Qualifications Issued: February 13, 2019 & February 20, 2019

Mandatory Pre-Submittal Conference: March 1, 2019

Deadline for Submittal of Responses: March 22, 2019

**LEGAL NOTICE  
REQUEST FOR QUALIFICATIONS (RFQ)  
CONSTRUCTION MANAGEMENT SERVICES**

The Golden Valley Unified School District, located in Madera County, California ("District") is requesting Statements of Qualifications (SOQ) from qualified General Contractors and Construction Management Firms who are experienced in construction planning, scoping, scheduling, value engineering, etc., as well as the construction of public school facilities in Central California, and are experienced with the CM Multiple Prime construction delivery method.

Qualified General Contractors and Construction Management Firms are invited to submit an original plus six (6) copies of said SOQ that meet the requirements described herein by no later than **4:00 p.m. on Friday, March 22, 2019** to the following address:

**Aimee Beintker  
Superintendent's Office  
Golden Valley Unified School District  
37479 Avenue 12  
Madera, CA 93636  
(559) 645-3570**

This Request for Qualifications does not commit the District to award a contract or pay any costs incurred in the preparation of a statement responsive to this request. The District reserves the right to accept all or part of any statement or to cancel in part or in its entirety this Request for Qualifications. The District further reserves the right to negotiate changes in and to accept the statement(s) that it considers to be in the best interest of the District.

Thank you for your interest in working with the Golden Valley Unified School District.

Rodney Wallace  
Superintendent

Golden Valley Unified School District

Publish Dates:

February 13, 2019

February 20, 2019

## General Instructions

Submittal of SOQ's should be reviewed for accuracy before submission to the District since SOQ's may not be adjusted after submission to the District. The District will not be responsible for errors or omissions in any SOQ's. The District reserves the right to reject any and all SOQ's, or to waive any irregularities, or informalities in the SOQ's.

1. **Signatures** - All SOQ's must include a signature of an authorized officer of the General Contractor or Construction Management Firm submitting the statement. The name and title of the person shall be included following the signature.
2. **Project Descriptions** - The District desires to establish a pool of Construction Management Firms to provide construction management services for various modernization and new construction projects using the CM Multiple Prime construction delivery method.
3. **Contacts** - In order to control information disseminated regarding this Request for SOQ's, General Contractors and Construction Management Firms interested in submitting SOQ's are directed not to make personal contact with members of the Board of Trustees and District Administration, with the exception of the individuals listed below:

**Aimee Beintker, Superintendent's Office (559) 645-3570**  
**Mike Berg (559) 906-4100**  
**Golden Valley Unified School District**  
**37479 Avenue 12**  
**Madera, CA 93636**

It is the desire of the District to establish a pool of Respondents that can meet or exceed the requirements set forth by the District and to provide comprehensive construction planning and construction services at the lowest cost and highest quality for selected projects over the next five (5) years (2020-2025). The District reserves the right to determine which projects are appropriate for use of construction management services.

## Submittals Instructions

1. **Written Statements of Qualifications** - SOQ's must be received in the Superintendent's Office c/o Aimee Beintker, Golden Valley Unified School District, 37479 Avenue 12, Madera, CA 93636 no later than **4:00 p.m. on Friday, March 22, 2019.**
2. **Disqualified Statements of Qualifications** - Any SOQ received after **4:00 p.m., Friday, March 22, 2019** will be refused and returned to the firm unopened.

3. **Withdrawal of Statements of Qualifications** - A firm may withdraw its SOQ, either personally or by written request, at any time before **4:00 p.m. on Friday, March 22, 2019.**
4. **Copies** - Each General Contractor or Construction Management Firm submitting a SOQ must include one unbound original, plus six (6) copies of the original.

### **Mandatory Pre-Submittal Conference**

A Mandatory Pre-Submittal Conference will be held on March 1, 2019, at 1:00 p.m. at the following location: **Golden Valley Unified School District, Construction Services, 37479 Avenue 12, Madera, CA 93636.** At the Pre-Submittal Conference, District representatives can provide information, and further describe the scope of required pre-construction services. Entities that fail to attend the Mandatory Pre-Submittal Conference shall be ineligible to respond to this RFQ.

### **License**

The District is seeking to retain a General Contractor or Construction Management Firm to manage the construction of its projects as described herein. The selected General Contractor or Construction Management Firm must be licensed as a general contractor by the State of California and must have experience with the construction of school facilities in California for at least 5 years, and have experience with the CM Multiple Prime method of school project delivery. The General Contractor or Construction Management Firm must also possess a current "B" license with the State of California.

### **Description of Projects**

Over the next five (5) years the District will periodically select projects for which construction management services will be utilized. These projects will be constructed using the CM Multiple Prime construction delivery method and may include either modernization and/or new construction.

As such projects arise, the District will select one or more firms from the pool of Construction Management Firms created pursuant to this RFQ to provide the desired construction management services. The District reserves absolute discretion to determine both: (1) when to engage construction management services; and (2) which Construction Management Firm from the pool will be awarded a particular project. As projects become available, they will be posted on the Facilities website: [www.gvusd.org/departments-services/facilities-homepage/](http://www.gvusd.org/departments-services/facilities-homepage/).

### Request for Qualifications Tentative Time Schedule

- |   |  |
|---|--|
| 1. Release Request for Proposal Documents         | February 13, 2019 &<br>February 20, 2019 |
| 2. Mandatory Pre-Submittal Conference             | March 1, 2019                            |
| 3. Deadline for Receipt of SOQ's                  | March 22, 2019                           |
| 4. Selection of Firms for Interviews              | March 27, 2019                           |
| 5. Oral Interviews with Select Respondents        | April 4, 2019                            |
| 6. Notify Respondents of Intent to Award Contract | April 5, 2019                            |
| 7. Board Approval of Selected Firms               | April 9, 2019                            |

### Special Conditions

1. **Public Record** - All SOQs submitted in response to the RFQ become the property of the District's public records and as such, might be subject to public review.
2. **Non-Discrimination** – The District does not discriminate on the basis of race, color, national origin, religion, age, ancestry, medical condition, disability or gender in consideration for an award of contract.
3. **Drug-Free Policy and Fingerprinting** – The selected pre-construction/construction firm(s) shall be required to complete any and all fingerprinting requirements and criminal background checks required by State law and shall be required to complete a Drug-Free workplace certificate.
4. **Costs** – Costs of preparing a SOQ in response to this RFQ is solely the responsibility of the Respondent.
5. **Prevailing Wage** – For any construction work that is anticipated as a result of this RFQ, Respondents are advised that these projects are public work projects for the purposes of the California Labor Code, which requires payment of prevailing wages. These rates are set forth in a schedule which may be found on the California Department of Industrial Relation home page ([www.dir.ca.gov](http://www.dir.ca.gov)). Any firm awarded a construction contract must pay the prevailing rates, post copies thereof at the job site, and otherwise comply with applicable provisions by state law.
6. **Bonding** – Any firm awarded a construction contract as a result of this RFQ will be required to furnish a Performance Bond in the amount of one hundred percent of the

contract price, and a Payment (Material and Labor) Bond in the amount of one hundred percent of the contract price.

7. **Limitations** – This RFQ does not commit District to award a contract, to defray any costs incurred in the preparation of a SOQ pursuant to this RFQ, or to procure or contract for work. The District reserves the right to waive any irregularities in the responses received pursuant to this RFQ.
  
8. **Termination** – In any construction management agreement entered into between the District and Respondent, the District shall retain the right to terminate the contract for inadequate performance.

### **SCOPE OF SERVICES**

The successful firm(s) must provide all services to be identified in the Construction Agreement under the CM Multiple Prime construction delivery method, General and Supplementary Conditions, other contract documents, and those set forth in the District's DSA-approved plans and specifications for the Projects.

#### **Construction Planning Services include but are not limited to the following:**

1. Work with the District staff and project architect(s) in the development of plans and specifications for selected projects.
2. Value engineering throughout the development of plans and specifications for selected projects.
3. Constructability review throughout the development of plans and specifications for selected projects.
4. Continually update project budgets including "soft" costs throughout the development of plans and specifications for selected projects.

#### **Construction and Post Construction Services include but are not limited to the following:**

1. Coordinate and manage all aspects of project construction.
2. Separate the work on the DSA approved plans and specifications by appropriate trades.
3. Coordinate project bidding.
4. In coordination with District staff and architect, conduct pre-bid conference(s).
5. Assist District in the evaluation of bids for completeness, responsiveness and price.
6. Assist District in the issuance of Notice of Awards, Notices to Proceed letters.
7. Assist District and Architect in the coordination of pre-construction conference(s).
8. Provide construction administration coordination with the architect throughout project construction.

9. Assist the District in coordinating the activities of the District's consultants including; engineering, testing, inspection, and labor compliance.
10. Assist the District in maintaining harmonious labor relations with the various consultants, vendors, and others providing services to the project.
11. In cooperation with the District and Architect, establish and implement procedures for review of shop drawings, submittals, RFIs, samples, product data, change orders, payment requests, etc.
12. In coordination with District and Architect, coordinate and conduct construction and weekly jobsite meetings.
13. Develop, communicate, implement and update, as necessary, the master construction schedule.
14. Coordinate the development and implementation of each trade contractor's safety program and conduct safety meetings as required and/or necessary.
15. Coordinate and expedite record drawings and specifications.
16. Compile operations and maintenance manuals, warranties/guarantees and certificates.
17. Other responsibilities necessary for the completion of the Project in accordance with the plans and specifications.
18. Provide the District with accurate "as-built" plans at the conclusion of the project.
19. Final presentation to the Board of Trustees detailing the work completed and a comparison of projected costs to actual costs.
20. Assist the District in any audit reporting to OPSC.
21. Assist the District with DSA close-out documentation.
22. Ensure compliance with DIR PWC100 online paperwork submittal.

## **STATEMENT OF QUALIFICATIONS FORMAT AND CONTENT**

In order for SOQ's to be considered, said SOQ must be clear, concise, complete, well organized and demonstrate both Respondent's qualifications and its ability to follow instructions. The quality of answers, not length of responses or visual exhibits is what is important in the SOQ.

One (1) unbound original plus six (6) copies of the SOQ shall be provided and with the exception of the unbound original, all copies shall be spiral bound into books of approximately 8 1/2" x 11" formats, not to exceed twenty-five (25) pages each plus exhibits/renderings, etc.

All Respondents are required to follow the order and format specified below. Each section of the SOQ shall be tabbed to correspond to the number/headers shown below:

### **1. Submittal Cover**

Include the RFQ's title and submittal due date, the name, address, fax number, e-mail address and telephone number of the responding firm (or firms if there is a joint venture or association).

## 2. Table of Contents

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

## 3. Body of Submittal

The following sections shall be included in the order listed below:

### A. Cover Letter

The cover letter should be brief (one page maximum). Identify the team members (i.e., joint partners and sub-consultants) and include the title and signature of the firm's contact person for its SOQ. If the firm is proposing to co-respond with another principal firm, the cover letter must specify the type of services to be provided by each firm and the proposed percentage allocated to that function.

### B. Mandatory Qualifications

Respondents must hold a General Building Contractor License (B License), which is current, valid and in good standing with the California Contractors State License Board. Respondents must have the necessary qualifications to provide the requested services in accordance with California law.

Provide the following information for each license:

- a. Name of license holder exactly on file
- b. License Classification
- c. License No. and Date Issued
- d. Expiration Date
- e. Whether license has been suspended or revoked in the past 5 years. If so, explain.
- f. Respondent shall provide information regarding all sub-consultants and subcontracts.

### C. Organization, Credentials, and General Background

Please provide a brief history of your organization, including:

- a. Number of years the organization has been in business.
- b. Location of corporate/main office and location of office (if different) that will perform the work required by this Request for Qualifications.
- c. List of basic services provided by your organization.



**D. Construction Planning and CM Multiple Prime Construction Delivery Method Experience**

Describe the experiences/background of your organization in providing the construction planning and construction services required by this Request for Statements of Qualifications, especially public school facilities. Provide a list of construction projects using the CM Multiple Prime construction delivery method described in this RFQ that your firm has constructed during the past five (5) years. Include contact information of the owner's representative, project architect, type of project (new school, addition to existing facility, modernization project, renovation, etc.), and project cost.

**E. Past Performance Record**

If any of the following has occurred, please describe in detail the circumstances for each occurrence:

- a. Failure to enter into a contract once selected.
- b. Withdrawal of a proposal as a result of an error.
- c. Termination or failure to complete a contract.
- d. Debarment by any municipal, county, state, federal or local agency.
- e. Involvement in litigation, arbitration, mediation or adversary proceeding.
- f. Conviction of the firm or its principals for violating a state or federal anti-trust law by bidrigging, collusion, or restrictive competition between bidders, or conviction of violating any other federal or state law related to bidding or contract performance.
- g. Knowing concealment of any deficiency in the performance of a prior contract.
- h. Falsification of information or submission of deceptive or fraudulent statements in connection with a contract.
- i. Willful disregard for applicable rules, laws or regulations.
- j. Information regarding any of the above may be deemed to indicate an unsatisfactory record of performance.

**F. Project Team**

- a. Identify key team members of your firm who will perform construction planning and construction services.
- b. Describe how the Projects would be staffed.
- c. Identify any sub-consultants you plan to use on any phase of the construction planning or construction as outlined in the RFQ.
- d. Provide an organization chart for the projects.

### G. Client Satisfaction/References

Provide a list of at least five (5) educational client references for which your organization has performed construction planning and construction services similar to those required by this Request for Qualifications. References must include:

- a. Name, address, telephone number, and a contact person of the client.
- b. Name, address, telephone number and a contact person for the project architect.
- c. Describe the project(s) on which your organization provided services.

### H. Financial Status

Attach a notarized statement from an admitted surety insurer approved by the California Department of Insurance and authorized to issue bonds in the State of California which states the current bonding capacity of your organization.

Attach a letter from your insurance company indicating your firm's ability to provide insurance. The following is a tentative schedule:

- A.M. Best financial rating of A or better.
- Commercial General Liability Insurance: Commercial General Liability Insurance shall be at least as broad as Insurance Services Office General Liability Coverage (Occurrence Form CG 0001.) Two Million Dollars (\$2,000,000) per occurrence for bodily injury, personal injury and property damage/ Two Million Dollars (\$2,000,000) aggregate.
- Automobile Liability Insurance: Automobile liability insurance shall be at least as broad as Insurance Services Office Form Number CA 0001 covering Automobile Liability, Code 1 (any auto). One Million Dollars (\$1,000,000) for bodily injury and property damage each accident limit.
- Workers' Compensation and Employer's Liability Insurance: The firm and all subcontractors shall insure (or be a qualified self-insured) under the applicable laws relating to workers' compensation insurance, all of their employees working on or about the construction site, in accordance with the "Workers Compensation and Insurance Act," Division IV of the Labor Code of the State of California and any Acts amendatory thereof. The firm shall provide employer's liability insurance in the amount of at least One Million Dollars (\$1,000,000) per accident for bodily injury and disease.
- Builder's Risk Insurance: The firm shall provide and maintain builder's risk insurance (or installation floater) covering all risks of direct physical loss, damage or destruction to the work. Limit shall be equal bid amount, if requested by the District.
- All insurance will be in a form and with insurance companies acceptable to the District.
- Insurance carriers shall be qualified to do business in California and maintain an agent for process within the State.

## **I. Price Structure and Fees.**

It is the intent of the District to establish a pool of firms to provide construction management services as outlined in this RFQ. Construction Managers shall submit a proposed range of fees to be calculated as a percentage of the hard costs of a project. The proposed fee(s) shall not exceed the permissible range of fees set out in the Exhibit B included herewith. Construction Management Firms will honor the proposed range of fees for the following five (5) years (2020-2025).

## **SUBMITTAL EVALUATION CRITERIA**

Submittals received by District will be evaluated according to the criteria listed below:

1. Conformance to the specified RFQ format;
2. Organization, presentation, and content of the submittal;
3. Specialized experience and technical competence of the firm(s), (including principal firm(s), joint venture-partners, sub-consultants and key personnel) considering the types of service required; the complexity of the projects; record of performance; and the strength of the key personnel who will be dedicated to the Project;
4. Proposed methods and overall strategic plan to accomplish the work in a timely and competent manner;
5. Knowledge and understanding of the local environment and a local presence for interfacing with the District;
6. Financial resources and stability of the principal construction management firm and/or a construction management team; and
7. Ability to meet the insurance requirements unless District, at its sole discretion, decides to modify or waive the insurance requirements or elects to provide Projects insurance.

## **METHOD OF SELECTION**

The District may conduct interviews with the most qualified Respondents that submit responses that are responsive to this RFQ. The District will evaluate the Respondents based on their demonstrated competence and on their professional qualifications necessary for the satisfactory performance of the services required, as evidenced in their responses and/or interviews.

## **SELECTION CRITERIA**

All Statements of Qualifications submitted in response to this Request for Qualifications will be evaluated to determine the Construction Manager(s) that can best meet the needs of the District, the requirements of the Projects, and the services to be provided under the Agreements. The selection criteria may include, but not be limited to, the items listed below:

1. Ability to communicate with the project team, District personnel, the Architect, and other personnel on the Projects, which will include a weekly construction meeting with the District and all project personnel;
2. Experience and expertise of the organization in providing construction planning and general construction services;
3. Past record of delivering public, educational projects on time, within budget and without legal claims;
4. Completeness and quality of the Statement;
5. Recommendations and/or visits to completed projects;
6. Oral interviews with a Selection Committee to be selected by the Superintendent or designee and may include, at a minimum representatives as follows:
  - Representative from the Governing Board
  - Superintendent
  - Assistant Superintendent of Educational Services
  - District Administration Representative(s)
  - Facilities Representative(s)
  - Community Representative(s)
  - Project Architect(s)
  - School Site Representative(s)
7. Price structure/fees;
8. Local presence;
9. Experience with State and local authorities for school facility projects including but not limited to the Division of State Architect (DSA), Office of Public School Construction (OPSC) California Department of Education (CDE), Cities of Clovis and Fresno, County of Fresno, Disabled Veterans Business Enterprise (DVBE) rules and regulations, alternate construction delivery projects for school projects, etc.

## **CONTRACT TERMS AND FINAL PRICE AND PAYMENT STRUCTURE**

As projects arise, District will begin negotiations with the firm(s) deemed most qualified to enter into an agreement to provide construction management services for that project consistent with this RFQ. The agreement will be substantially in the form of the Construction Management Agreement attached hereto as Exhibit A. Should the District be unable to negotiate a satisfactory contract with the Entity(s) considered to be the most qualified at a price the District deems reasonable, negotiations with that Entity may be formally terminated. The District may then undertake negotiations with the next most qualified Entity(s).

**OFFER TO ENTER INTO CONTRACTS**

The undersigned hereby proposes to enter into contracts with the Golden Valley Unified School District and to furnish services as described in this Request for Qualifications. The undersigned agrees to honor the proposed range of fees for five (5) years (2020-2025).

Name and Address of Construction Manager/General Contractor

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City and State: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Fax: \_\_\_\_\_

Signature of Authorized Officer or Employee of Construction Manager/General Contractor

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Phone Number: \_\_\_\_\_

**EXHIBIT "A"**

CONSTRUCTION MANAGEMENT AGREEMENT

This Construction Management Agreement ("Agreement") is made and entered into effective \_\_\_\_\_, 20\_\_, by and between the **GOLDEN VALLEY UNIFIED SCHOOL DISTRICT** ("District") and \_\_\_\_\_, ("Construction Manager").

**NOW, THEREFORE,** the parties agree as follows:

1. **ENGAGEMENT OF CONSTRUCTION MANAGER.** District and Construction Manager agree that Construction Manager shall be engaged, as an independent contractor, to assist in the development and construction of the \_\_\_\_\_ (the "Project"). The Construction Manager shall be one of the District's representatives and agents on the Project. The Construction Manager shall be responsible for the overall coordination, administration and scheduling of all work on the Project. The Construction Manager shall be responsible, to the extent described in this Agreement, for ensuring in a competent and professional manner that the Project is properly completed within the District's Project budget for total construction costs ("District's budget") and in accordance with the District's schedule for timely completion of the Project. The term of this Agreement shall be through final completion of the Project work and all applicable warranty periods, which includes completion of all Project financial transactions (i.e., all progress and final payments, releases of retention, change orders and any claims). Construction Manager, and its subconsultants on this Project, shall not be allowed to bid on any of the Project's construction work, including any and all prime contracts. Construction Manager shall comply with any applicable prevailing wage laws.

2. **PAYMENT OF CONSTRUCTION MANAGER.**

A. For satisfactory performance of the services required by this Agreement ("Basic Services"), Construction Manager shall be compensated in an amount consistent with the rates outlined in the Construction Management Fee Schedule as set out in Exhibit A, attached. The total sum of the multiple prime contracts for this Project is \$\_\_\_\_\_. Construction Manager's compensation for services under this Agreement shall be \$\_\_\_\_\_.

In addition to Basic Services, Construction Manager shall be compensated for General Conditions consistent with the rates outlined in the General Conditions Fee Schedule as set out in Exhibit A, attached. Retention will not be withheld from payments made to Construction Manager. The Construction Manager's compensation for General Conditions shall be \$\_\_\_\_\_.

B. Construction Manager shall submit monthly progress reports itemizing its services provided and general conditions services performed, and stating the percentage of work completed on the Project by all contractors, with documentation to supports its calculations. The reports shall list the employees, services performed, and all general conditions services for the previous calendar month. District will pay Construction Manager based on the percentage of work completed as set out in Exhibit B. If District disputes a portion of the report, it shall notify Construction Manager within twenty (20) days and meet and confer with Construction Manager to resolve the dispute.

C. If Construction Manager reaches a not-to-exceed amount set forth in this Section 2, subject to modification as contained in this Agreement, before its services under this Agreement are complete, Construction Manager shall complete its services under this Agreement and shall not be entitled to any further compensation.

D. District may withhold from payments to Construction Manager to the extent that Construction Manager's wrongful acts or omissions caused District to incur damages or costs, including but not limited to withholding the full amount of any change order necessitated by an error or omission in the Contract Documents. ("Contract Documents" means all documents that are incorporated into a construction agreement between the District and a Contractor for the Project, including plans and specifications.) ("Contractor(s)" shall mean individual prime or trade contractor(s).)

E. Construction Manager may separately invoice, on an hourly basis, for services that it performs at District's written direction that are outside the scope of this Agreement ("Additional Services"). Prior to performing these services, Construction Manager must provide District with written notice that the requested services are Additional Services. Additional services are also subject to the dispute procedures in Section 2.C., above. District shall pay the undisputed amount of any invoice within thirty (30) days of receipt of the invoice. Failure of District to dispute an invoice within twenty (20) days shall not act as a waiver of District's rights to later challenge the validity of the invoice and to withhold the potentially invalid portion. Construction Manager shall not be compensated for any Additional Services required as a result of Construction Manager's wrongful acts or omissions in breach of this Agreement, the applicable standard of care, or the law.

F. District has the right to audit Construction Manager's records regarding any of the services Construction Manager performs for District on this Project.

### 3. **DUTIES AND RESPONSIBILITIES OF CONSTRUCTION MANAGER.**

#### **A. General Duties and Responsibilities.**

1. Construction Manager will administer all phases of construction

activities to achieve the completion of all construction contracts and the Project in accordance with the requirements of this Agreement and in accordance with the reasonable care of a professional construction manager in the circumstances of this Project. All services Construction Manager performs under this Agreement shall be conducted in a manner consistent with the terms of this Agreement and with the level of care and skill ordinarily exercised by construction managers, on similar projects in California with similar complexity and with similar agreements, who are specially qualified to provide the services the District requires. Construction Manager shall conduct all such services in conformance to, and compliance with, all applicable Federal, State and local laws, including but not limited to statutes, decisions, regulations, building or other codes, ordinances, charters, the Americans with Disabilities Act ("ADA"), the California Public Contract Code, the California Civil Code, and the California Government Code. Construction Manager shall provide other reasonable and necessary services that assist District in maintaining the District's budget and schedule. Construction Manager shall perform the services set forth in this Agreement as expeditiously as is consistent with the orderly progress of the Project, the applicable standard of care, the timelines of this Project and Agreement, and all applicable law.

2. Staffing. Construction Manager shall provide sufficient staffing to timely perform its duties and responsibilities under this Agreement, including coordination of the work to optimize efficiency and minimize conflict and interference between the various Contractors on-site, and, if applicable, District's own forces. All of Construction Manager's personnel shall be qualified to perform the services they provide for the Project. Construction Manager shall obtain District's written approval of each employee of Construction Manager who provides services under this Agreement, and written approval for each change of employees who provides such services. District may, upon fifteen (15) days written notice, cause Construction Manager to remove a person from the Project if he/she has failed to perform to District's satisfaction. For new construction projects, Construction Manager shall provide a fulltime Project manager during the construction phase with authority to commit resources of Construction Manager to monitor, manage and administer all aspects of this Agreement to help achieve the completion of all construction. For modernization projects, the staffing level of Project managers provided by the Construction Manager shall be discussed with and approved by the District. Should District request additional employees to timely and fully perform all of the services required under this Agreement and/or to avoid delay occurring, Construction Manager shall provide them immediately at no additional cost to the District. Should the Construction Manager anticipate that providing additional staff would qualify as Additional Services, Construction Manager shall present the issue and projected cost to District for review. Should the District agree with the Construction Manager's analysis and projected cost, the District will authorize the additional cost to the Construction Manager in writing. The District will not compensate the Construction Manager for any Additional Services that are not authorized in advance and in writing.



3. Disclosure. Construction Manager shall disclose to District all of Construction Manager's subconsultants that are performing services related to the Project. Construction Manager shall also disclose to District any compensation related to the Project that Construction Manager receives from parties other than the District so that District may determine if there are any conflicts of interest.

4 . Additional Services. If District directs Construction Manager to perform services related to the Project that are not within the scope of this Agreement, Construction Manager shall perform them and invoice the District for such services pursuant to Section 2.F.

5. Obligation to Perform. The Construction Manager shall provide all construction management duties and functions as specifically directed by the District, even if not specifically identified in this Agreement. The Construction Manager shall perform all tasks as directed by the District to complete the Project and Construction Manager's services. The Construction Manager may not cease performance of its services under this Agreement for any reason, including disputes with the District or an alleged breach of contract by the District. The Construction Manager acknowledges that its priority is to ensure completion of the Project on time and on, or under, the District's budget. If the Construction Manager believes that the District owes it additional compensation under this Agreement, the Construction Manager may submit a request for additional compensation, but the Construction Manager may not cease or reduce performance of its services for that reason.

**B. Construction Planning Phase**

The services to be provided during the Construction Planning Phase for the Project generally include, but are not limited to: review and recommendations during design development; preparation of conceptual and periodic estimates; budget assessment and cost containment advice; value engineering studies and recommendations; and Construction Manager reviews, including reviews of \_\_\_\_\_.

1. Construction Management Plan. The Construction Manager shall prepare a construction management plan for the Project. The construction management plan shall (1) provide a preliminary evaluation of the District's schedule, cost and design requirements for the Project; (2) develop an anticipated construction schedule; (3) develop a preliminary cost estimate for each type of work contemplated by the Project; (4) clarify and delineate the Architect's duties, the Contractor's responsibilities, the District's responsibilities, the Construction Manager's responsibilities; and (5) set forth a plan for the administration of all work on the Project. The plan shall provide for Architect and District review and acceptance.

2. Preliminary Schedule. The Construction Manager shall prepare a preliminary critical path schedule for the Project using software showing construction activities, procurement and submittal activities, any other critical path activities, and sequencing and

duration of the Contractor's work on the Project. The preliminary schedule shall specify the proposed starting and finishing dates for the contract and the dates by which certain construction activities and milestones must be complete. The Construction Manager shall submit the preliminary schedule to the District for review and approval. The preliminary schedule will be included in the bid package and will be the initial basis for the schedule during construction.

3. Project Construction Cost and District's Budget. The Construction Manager shall assist the Architect in preparing the Architect's initial and revised Project Construction Cost, which shall be estimates of the total construction costs to be paid by the District to the Contractor. All Project Construction Costs shall include a contingency for additional construction costs that may arise through higher bids than expected, future increases in construction costs, and change orders. The Project Construction Cost shall also provide cost breakdowns based on anticipated trades and/or subcontractors. The Construction Manager shall also approve in writing any Project Construction Cost the Architect submits. During the Architect's design phases, the Construction Manager shall assist Architect in ensuring that the Project Construction Cost remains equal to, or less than, the District's budget. The Construction Manager shall consult with the Architect and District to suggest reasonable adjustments in the Project scope, if any, and to suggest possible add/delete bid alternatives in the Contract Documents, to adjust the Project Construction Cost to conform to the District's budget.

4. Bid Package. The Construction Manager shall, with assistance from the Architect, prepare the bid package and ensure that all Project requirements (including general conditions) are included. Construction Manager will be responsible for assembly of the bid package and preparation of all cover information to assure that all items listed on the cover are included in the bid documents.

5. Pre-Bid Conferences. The Construction Manager shall, with the assistance of the Architect and the District, disseminate the bid package and conduct pre-bid conferences to familiarize bidders with the bid documents and management techniques. The Construction Manager shall also assist the Architect with responding to questions from prospective bidders, and with the issuance of addenda. If requested by the District, the Construction Manager shall assist the District in pre-qualifying bidders.

6. Project Meetings. The Construction Manager shall conduct Project meetings as needed, but on at least a weekly basis. The District may request more frequent meetings. The District, Architect and others shall attend these meetings. The meetings shall serve as a forum for the exchange of information concerning the Project and the review of design progress. The Construction Manager shall prepare and distribute minutes of these meetings to the District, Architect, and others in attendance.

7. Review of Contract Documents. Before the Architect submits the

Contract Documents to the Division of the State Architect ("DSA"), the Construction Manager shall thoroughly and adequately review the Architect's proposed Contract Documents and make detailed written recommendations to the District and the Architect regarding: constructability; likelihood of resulting in accurate and complete bids; and general completeness, clarity, consistency, coordination, and cost-effectiveness. Construction Manager shall also make recommendations regarding value engineering, possible add/delete bid alternatives, timelines for construction and scheduling. Construction Manager shall provide all of the above recommendations to the District and the Architect in writing or as notations on the proposed Contract Documents and Contract Documents. The constructability review shall also ascertain whether the Contractor can construct the Project as depicted in the proposed Contract Documents, and can do so without delays, disruptions, or additional costs. The constructability review shall include written confirmation that: (a) the Construction Manager's senior estimator has directly and thoroughly reviewed and approved all proposed Contract Documents. Construction Manager shall provide District with evidence of that review; (b) proposed Contract Documents requirements are consistent with, and conform to, the District's Project requirements; and (c) the various components of the proposed Contract Documents prepared by Architect and its design consultants are coordinated and consistent with each other so as to minimize conflicts within, or between, the components. In performing the reviews and making the recommendations, the Construction Manager shall not be assuming responsibility or liability, in whole or in part, for any aspect of the Project design, design requirements, design criteria or the substance or contents of the proposed Contract Documents. The Construction Manager may use building information modeling technology during the constructability review if District and Construction Manager believe it is advisable for the Project.

The District shall have the sole and exclusive discretion to accept some, all, or none of the constructability review comments. If the District accepts any of the constructability review comments and directs Architect to revise the design accordingly, then Construction Manager shall review the Architect's revised proposed Contract Documents to confirm that the accepted comments have been addressed in the proposed Contract Documents.

The Construction Manager shall review the Architect's Storm Water Pollution Prevention Plan, if any, and provide written recommendations to the District and Architect as to its adequacy.

8. Project Funding. The Construction Manager shall assist the District in preparing documents concerning the District's budget for use in obtaining or reporting on Project funding. The documents shall be prepared in a format approved by the District. The Construction Manager shall make recommendations to the District concerning revisions to the Project and Project Construction Cost that may result from design changes.

9. Schedule Reports. The Construction Manager shall prepare and distribute biweekly reports that compare actual progress with scheduled progress for the design phases of the Project.

10. Project Cost Reports. The Construction Manager shall prepare and distribute Project cost reports that shall indicate actual or estimated costs compared to the District's budget.

11. Bidding, Bid Opening, and Evaluation.

11.1 The Construction Manager shall develop and expedite bidding procedures for bid document issuance, bid tracking, and receipt of bids. The Construction Manager shall develop bidders' interest in the Project and shall maintain contact with potential bidders on a regular basis throughout the bid period. Construction Manager shall conduct a telephone campaign to encourage and maintain interest in bidding.

11.2 All construction work, including "general conditions" work, for the Project shall be competitively bid unless otherwise required by the District.

11.3 If the Project is funded with any State funds, Construction Manager shall comply with all applicable State Allocation Board ("SAB") requirements.

11.4 The Construction Manager shall coordinate the preparation and placement of the notices and advertisements to solicit bids as required by law and in cooperation with the District and Architect. Architect may, with District's written approval, delegate to Construction Manager: publication of the invitation to bid in the appropriate regional trade papers and publications devoted to Disabled Veteran Business Enterprises; and the preparation, and submission to OPSC, of the appropriate documentation of that publication.

11.5 The Construction Manager shall coordinate and expedite the preparation, assembly and delivery of bid documents and any addenda to the prospective bidders. This shall include the following, as applicable: arrange for printing, binding, wrapping and delivery of bid packages; and make follow-up calls to the prospective bidders. The Construction Manager shall administer the addenda process and shall provide a review of each addendum during the bid phase for time, cost, and constructability impact, and make appropriate comments or recommendations.

11.6 The Construction Manager shall include the following

requirements in all proposed bid package documents: performance and payment bonds at 100% of the contract amount; all bond sureties must be admitted California surety insurers; and insurance in amounts and coverage as directed by the District.

- 11.7 The Construction Manager shall open and evaluate all bids received, and make a recommendation to the District for award of the contract or rejection of all bids. Construction Manager shall assist the District in determining bidders' responsibility, by among other things, analyzing any questionnaires, interviewing, investigating and researching, and shall submit a written report to the District and Architect with information and recommendations. Construction Manager shall also submit a bid package summary that lists the name of the low bidder and the low bid amount. If applicable, the summary shall classify the bid according to SAB cost allowance categories; and when a bid includes work in more than one cost category, the summary shall assign an appropriate amount to each.
- 11.8 If the District authorizes re-bidding, the Construction Manager shall assist the Architect in revising the scope and the quality of work as may be required to reduce construction costs. The Construction Manager, without additional compensation, shall cooperate with the District and Architect as necessary to bring construction costs within the District's budget.
- 11.9 Construction Manager shall certify in writing that all of the work in the plans and specifications for the Project is included in the bid package. If the bid package does not include 100% of the work in the plans and specifications, the cost of the additional necessary work shall offset the Construction Manager's fees.
- 11.10 The Construction Manager shall not be a bidder or perform work for the successful bidder.

12. Proposal Evaluation and Solicitation. For work which need not be competitively bid, the Construction Manager shall solicit requests for proposals, evaluate all proposals received, and make recommendations to the District regarding the Contractor to be selected for such work.

13. Pre-Construction Conferences. With the Architect's assistance, the Construction Manager shall conduct pre-construction conferences with the successful bidder, which shall include providing the Contractor to the various reporting procedures and site rules

prior to the commencement of actual construction. The Construction Manager shall obtain the certificates of insurance and bonds from the Contractor review and, if acceptable, approve them, and then forward them to the District.

14. Equipment Procurement. The Construction Manager shall recommend a schedule for the District's purchase, procurement and/or rental of owner furnished materials and equipment required for the Project.

15. Communications. The Construction Manager shall develop a communication system to ensure clear communication between the District, the Construction Manager, the Architect, Contractor and other parties involved with the Project. In developing this communication system, the Construction Manager shall meet with the District, the Architect and others to determine the type of information to be reported, the reporting format and the desired frequency for distribution of the various reports.

**C. Construction Phase.**

1. Construction and Contract Administration. The Construction Manager shall provide administrative, management, and related services as required to coordinate work of the Contractors with each other and with the activities and responsibilities of the Construction Manager, the District, and the Architect to complete the Project in accordance with the Contract Documents and this Agreement, within the District's budget, as well as within the District's cost, time, and quality objectives. As the District's representative on the construction site, the Construction Manager shall be the party to whom Contractors submit all documents and information, including requests for information, submittals, shop drawings and proposed change orders. Construction Manager shall be responsible for administration of the Contracts as set forth herein, and for managing the Contractors and coordination of their work to optimize efficiency and minimize conflict and interference between Contractors. ("Contract(s)" means a contract(s) between the District and a Contractor(s) for the Project, as reflected in the Contract Documents.) Construction Manager shall meet with District on an asneeded basis and at the District's request.

2. Project Site Meetings. The Construction Manager shall schedule and conduct construction and progress meetings to discuss all matters relevant to construction of the Project, including but not limited to procedures, progress, inspections, necessary corrective work, problems, requests for information, proposed change orders, and scheduling. During construction, the meetings shall occur at least weekly. The Construction Manager shall prepare and distribute detailed minutes to all attendees, the District and the Architect.

3. Budget Management and Cost Control. The Construction Manager shall prepare and distribute monthly Project cost reports that shall indicate actual or estimated costs compared to the Project Construction Cost and the District's budget, including a summary of the progress payments and the amounts of potential, proposed and actual change orders.

The Construction Manager shall revise and refine the Project Construction Cost, incorporating changes as they occur and identifying variances between actual and budgeted or estimated costs. Construction Manager shall also make recommendations for eliminating future costs so the predicted Project Construction Cost to be incurred will be within the District's budget.

4. Master Schedule. During construction, the Construction Manager shall collect monthly updated schedules and daily logs from the Contractors as required under the Contracts. The Construction Manager shall prepare an updated Master Schedule based on the Contractors' updates, and obtain the Contractors' approvals of the Master Schedule. On a monthly basis, or more frequently if requested by District, the Construction Manager shall provide this updated Master Schedule to the District. The updated Master Schedule shall include an accurate as-built schedule and the current as-planned schedule, and shall otherwise meet the requirements of this Agreement. The Construction Manager shall submit the Contractors' daily logs for the month, and Construction Manager's daily logs for the month, to the District when it submits the updated Master Schedule.

If a Contractor does not submit original or updated schedules as required under its Contract Documents, then the Construction Manager shall immediately notify the District and recommend action to bring the Contractor into compliance.

If any change in a Contractor's method of operations will affect, or necessitate a change in, the construction schedule, the Construction Manager shall submit to the District a revised Master Schedule within seven (7) days of the change.

If, in the opinion of the District or Construction Manager, a Contractor's work is not progressing at a sufficient rate to meet the Master Schedule, a contractual milestone deadline, or the contractual completion deadline, or if a Contractor's actual progress falls behind the Master Schedule or will not meet a contractual milestone or completion deadline, then Construction Manager shall immediately demand a recovery plan from that Contractor. The Construction Manager shall review the Contractor's recovery plan for compliance with the requirements in the Contractor's Contract Documents, and if the Construction Manager determines that the plan is insufficient, the Construction Manager shall demand immediate correction and revision by the Contractor.

Construction Manager shall immediately provide all Contractor recovery plans, along with the Construction Manager's written recommendations, to the District for its consideration.

5. Trivial Variations in the Work. The Construction Manager may authorize trivial variations in the work from the requirements of the Contract Documents that (a) do not involve an adjustment in the Contract price or the Contract time, and (b) are consistent with the overall intent of the Contract Documents. The Construction Manager shall immediately provide to the Architect and the District copies of such authorizations.

6. Quality Review and Inspections. The Construction Manager shall

establish and implement a comprehensive program to monitor the quality of the construction, as part of the Construction Manager's supervision of all Contractors and their work. The purpose of the program shall be to assist in guarding the District against work by a Contractor that does not conform to the requirements of the Contract Documents. The Construction Manager shall work with the Contractors to facilitate the appropriate inspections. The Construction Manager shall work with the Inspector of Record to ensure that he/she is performing all necessary inspections, and shall incorporate the results of the Inspector of Record's inspections into the Construction Manager's inspection and quality program.

When it is the opinion of the Construction Manager, Inspector of Record, District, or the Architect that a Contractor's means, methods, techniques, sequences or procedures of construction will likely lead to a portion of the Contractor's work not conforming to the Contract Documents, then the Construction Manager shall immediately so notify the Contractor in writing. The notice shall also state that the District will reserve all rights to demand correction of any resulting non-conforming work or to pursue other relief; however, the notice shall not direct Contractor as to what means, methods, techniques, sequences or procedures Contractor should use to meet the requirements of the Contract Documents, nor shall Construction Manager ever provide such direction to a Contractor during the Project. Except for trivial variations in the work from the requirements of the Contract Documents that do not involve an adjustment in the Contract price or the Contract time and which are consistent with the overall intent of the Contract Documents, the Construction Manager is not authorized to, and shall not, change, revoke, alter, enlarge, relax or release any requirements of the Contract Documents or approve or accept any portion of the work not conforming to the requirements of the Contract Documents. Communication between the Construction Manager and Contractors with regard to quality review shall not in any way be construed as binding the Construction Manager, the Architect, or the District to the Contractors, or be construed as releasing the Contractors from performing the work in accordance with the Contract Documents. The Construction Manager will not be responsible for the means, methods, techniques, sequences and procedures of construction a Contractor uses for the Project unless, contrary to the terms of this Agreement, it directs a Contractor to use certain means, methods, techniques, sequences or procedures to meet the requirements of the Contract Documents. The Construction Manager shall not be responsible for the failure of the Contractors to complete work in accordance with the Contract Documents so long as Construction Manager has used all available means and undertaken good-faith efforts to secure the performance of the Contractors in accordance with the Contract Documents.

7. DSA Construction Oversight Process. The Construction Manager has the primary responsibility for the Project to coordinate and support the compliance of all parties, including the Project Inspector ("IOR"), Contractor, Architect, laboratories, District and the Construction Manager itself, with the DSA Construction Oversight Process.



The Construction Manager must communicate and coordinate with the Owner, Contractor, Architect, laboratories, and the IOR to meet the DSA Construction Oversight Process requirements without delay or added costs to the Project.

The Construction Manager shall be responsible for any additional DSA fees and delay damages related to review of proposed changes to the DSA-approved Contract Documents, to the extent Construction Manager's performance of, or failure to perform, any duties under this Agreement or law caused the additional DSA fees, and delay damages.

8. Change Orders and Claims. The Construction Manager shall recommend necessary or desirable changes to the Architect and the District, review proposed change orders, assist in negotiating Contractors' proposed change orders, submit recommendations to the Architect and District regarding the proposed change orders, and, if they are accepted, prepare change orders for the Architect's review and with the understanding that the District's governing body must approve all change orders. The Construction Manager shall review the contents of all proposed change orders from the Contractors regarding the Contract time or price, endeavor to determine the cause of the proposed change order, assemble information concerning the proposed change order, and evaluate the merits of the proposed change order. The Construction Manager shall ensure that all supporting documentation is submitted with any proposed change order, and shall request additional supporting documentation if necessary. The Construction Manager shall provide to the Architect a copy of each proposed change order, and the Construction Manager shall, in its evaluation of the Contractors' proposed change orders, consider the Architect's comments regarding the proposed changes. The Construction Manager shall make a final written recommendation to District and Architect regarding each proposed change order and shall conduct negotiations with Contractors if necessary. No change orders will be paid by District without prior approval of the District. The Construction Manager shall prepare and distribute change order reports on a weekly basis for the District. The report shall list all District-approved change orders by number, a brief description of the change order work, the cost, and percent of completion of the change order work. The report shall also include similar information for proposed change orders and potential change orders of which the Construction Manager may be aware. To the extent that a Contractor performs work that is the subject of a proposed change order, the Construction Manager shall monitor the work and include in the daily report all information necessary to calculate the Contractor's costs in performing the work.

If a Contractor submits a claim to the District under its Contract, including one based on the denial of a proposed change order, the Construction Manager shall process and evaluate the claim, and make reasonable efforts to resolve the claim, under the procedures outlined in the Contract Documents.

9. Progress Payments and Retention Release; Optional Payment Escrow. Progress payments to Contractors shall be made as required by the Contract Documents and by law (including but not limited to Public Contract Code section 20104.50),

and the Construction Manager shall process all such payments and notify the District when payments are required. The Construction Manager shall develop and implement procedures for the review and processing of monthly applications by Contractors for progress payments and final payments. At or before submission of a Contractor's first progress payment application, the Construction Manager shall collect from the Contractor a reasonable schedule of values that accurately allocates the Contract price to the Contract work items. The Construction Manager shall receive, review, revise and give initial approval to the progress payment applications. After Construction Manager gives initial approval to the progress payment applications, it shall distribute them to Architect, and then to the District, for approval. The progress payment application shall be provided in a monthly Constructware report and shall be separated by prime contractors. The applications shall state the total Contract price, total payment to date, total retention to date, current payment requested based on percentages of work items completed to date (per the schedule of values), revised total payment, and revised retention. A portion of this application shall be a recommendation for payment that the Construction Manager shall sign, and deliver to, the District for the District's use in making payments to the Contractors.

Retention shall be released as required by the Contract Documents and by law (including but not limited to Public Contract Code section 7107), and the Construction Manager shall process all such releases and notify District of when such releases are required.

The Construction Manager shall monitor the District's grounds for withholding some or all of the progress payments and/or retention releases from the Contractors (including past and future liquidated damages, and cost of corrective work), and shall advise the District of such grounds before any progress payment or retention release. The Construction Manager shall withhold from progress payments and/or retention releases for all such grounds unless the District instructs the Construction Manager to not withhold. The Construction Manager shall not waive any rights, claims or damages that the District may have against the Contractors without written authority from the District to do so. The Construction Manager shall take all action necessary to protect, document and preserve the District's rights, claims and damages against the Contractors, including but not limited to notification of the accrual or assessment of liquidated damages.

The Construction Manager, in conjunction with the District, shall establish and administer an appropriate Project accounting system and shall maintain cost accounting records on authorized work performed under unit costs, additional work performed on the basis of actual costs of labor and materials, or other work requiring accounting records. Construction Manager shall provide monthly accounting updates.

10. Contractor Safety Programs. The Construction Manager shall review the safety programs the Contractors develop under the Contract Documents and shall coordinate all safety programs for the Project.

11. Permits and Approvals. The Construction Manager shall assist the Contractors (or District when specified) in obtaining approval and permits from all authorities having jurisdiction over the Project. The Construction Manager shall also verify that all required permits, bonds, and insurance have been obtained from the Contractors.

12. Coordination of Technical Inspection and Testing. The Construction Manager shall assist the District in selecting and retaining the professional services of special consultants and testing laboratories and coordinate their services. The Construction Manager shall receive a copy of all inspection and testing reports and shall provide a copy of such reports to the Architect. The Construction Manager shall coordinate with the District's testing consultants all testing required by the Architect, District or third parties.

13. Interpretation of Contract Documents. The Construction Manager shall consult with the Architect and the District if a Contractor submits a request for information or other requests for interpretation of the meaning or intent of the Contract Documents ("RFI"), and shall assist in the resolution of questions which may arise; however, the Architect shall have primary responsibility for the interpretation of Project plans and specifications. Within two (2) business days of receipt of an RFI, the Construction Manager shall either: 1) forward the RFI to the Architect and District; or 2) for an RFI not related to the plans and specifications, review or reject it. However, if the issue in the RFI is directly impacting the critical path at that time, the Construction Manager shall forward, review or reject the RFI immediately upon receipt. Responses received from the Architect shall be immediately forwarded to the submitting Contractor. Construction Manager shall keep Architect informed of any rejected RFI's.

14. Document and Submittal Review Procedures. The Construction Manager shall review all shop drawings, schedule updates, product data, samples, and other submittals provided by a Contractor and coordinate submittals with the information contained in the plans and specifications. The Construction Manager shall transmit all such materials to the Architect for approval within two business days of receipt, unless the submittal is directly impacting the critical path at that time, in which case the Construction Manager shall forward the submittal immediately upon receipt. The Construction Manager shall maintain logs, files and other necessary documentation. Responses received from the Architect shall be immediately forwarded to the Contractor that provided the submittal.

15. Daily Log. The Construction Manager shall record the progress of the Project by a daily log. The Construction Manager shall submit written reports to the District and the Architect on a regular basis, as established by the District. The daily log will include, but not be limited to, information about the weather, Contractors and subcontractors at work and their equipment and staffing, work accomplished, problems encountered, rejection of material or work, the current critical path of the Project, issues that are known to be in dispute and/or may be the subject of proposed change orders or claims, and other similar relevant data as the District may require. Construction Manager shall document the Project by use of video,

photographs, and audio, with particular attention to known disputes and/or issues that could lead to proposed change orders or claims.

16. Project Site Records. The Construction Manager shall maintain at the Project site, on a current basis the following documents: A record copy of all Contracts, drawings, specifications, addenda, change orders, and other modifications, in good order and marked to record all changes made during construction; pre-construction activities documents, including but not limited to constructability review documents; shop drawings, product data, samples, and submittals; records regarding purchases, materials and equipment; applicable handbooks, schedules, schedule updates and daily logs; records regarding progress payments, retention, proposed change orders, claims and change orders; maintenance and operating manuals and instructions; and other related documents and revisions which arise out of the Contract or work. The Construction Manager shall make all records available to the District and Architect and deliver them to the District at Project completion or termination of this Agreement.

17. Security. The Construction Manager shall arrange for storage, protection, and security of District-furnished materials, systems, and equipment until such items are incorporated into the Project. Upon District's request, Construction Manager shall comply with any fingerprinting or related requirement.

18. Start-Up Operations. The Construction Manager shall review the Contractors' checkout of the readiness of utilities, operational systems, and equipment and shall assist the Contractors in their initial start-up, testing, balancing, adjusting, training of District employees and preparation of operations and maintenance manuals. The Construction Manager shall coordinate and assist the District in the move-in for the Project.

19. Punchlist. Upon notice from a Contractor that the Contractor believes its work is complete, the Construction Manager, in consultation with the Architect and the Inspector of Record, shall prepare a list of incomplete work or work which must be corrected due to failure to conform to the requirements of the Contract Documents (the "Punchlist"). The Construction Manager shall diligently pursue the Contractors to complete their Punchlist work as quickly as possible, using all available District powers and rights under the Contract Documents. If a Contractor's Punchlist is not completed within forty-five (45) days of issuance, the Construction Manager shall provide a written recommendation to the District as to how to best proceed to secure completion of the Punchlist as quickly as possible.

20. Final Completion and Final Payment. The Construction Manager shall consult with the Architect and the District and shall determine when a Contractor's work is fully complete as required by the Contract Documents. When a Contractor's work is complete, the Construction Manager shall notify the District in writing and shall recommend that the District accept the Contract work as fully complete. The Construction Manager shall draft the resolution of acceptance for the District's Board to approve, and shall also, if required for the

Project or if District requests it, draft a Notice of Completion to be recorded with the County within fifteen (15) days after the Board's acceptance. The Construction Manager shall continue to process progress payment applications, releases of retention, proposed change orders and claims as required by the Contract Documents and the law beyond the completion and acceptance of the work.

21. Final Documents. During the Project, the Construction Manager shall secure from the Contractors and transmit to the District all documents and items required by the Contract Documents, including guarantees, affidavits, releases, bonds, keys, schedule updates, manuals, record drawings, and daily logs. Upon completion of the Project, the Construction Manager shall also forward all of its documents and plans to the District and ensure all such plans and documents are well organized for any appropriate audit or review of the Project. The Construction Manager shall collect as-built drawings from the Contractors and review them for accuracy and completeness, and then forward them to Architect for preparation of a final complete set of as-built drawings for the Project in its entirety. The Construction Manager, in cooperation with the District and Architect, shall assist with the coordination and processing of all necessary paperwork and closeout documents with the Office of Public School Construction ("OPSC"), DSA, and any other applicable public agencies.

22. Warranty Inspections. The Construction Manager shall perform warranty inspections within 30 days after the completion of all work on the Project, and shall report any warranty items observed to Contractor(s) responsible for the subject work, and shall copy the Architect and District in all such notifications. The Construction Manager shall arrange for, and monitor, Contractor's work on site and inspect any resulting warranty work by the Contractors. Immediately after a warranty inspection, the Construction Manager shall notify the Contractors in writing of all warranty items that require correction and shall monitor any repairs or other efforts required of Contractor throughout the warranty period.

**4. DISTRICT DUTIES AND RESPONSIBILITIES.** During the term of this Agreement, the District shall:

- A. Provide a budget for the Project ("District's budget"), based on consultation with the Construction Manager and the Architect;
- B. Designate a representative authorized to act on the District's behalf with respect to the Project. The District, or such authorized representative, shall examine documents submitted by the Construction Manager and shall render decisions promptly to avoid unreasonable delay in the progress of the Project;
- C. Furnish structural, mechanical, electrical, and other laboratory tests, inspections and reports as required by law or by the Contract Documents;
- D. Retain an architect to design the Project;

E. Furnish a list of events for inclusion in the schedule(s) that may affect construction, such as quiet days, fundraising events, meetings, parent nights, or summer school; and

F. Advise promptly of any fault or defect in the Project, or nonconformance with the Contract Documents, that the District observes.

**5. TERMINATION.**

A. District may terminate this Agreement for any reason, in its absolute discretion and convenience, by giving Construction Manager fourteen (14) days written notice of termination. District may also issue a written notice of termination of this Agreement for cause based on the Construction Manager's breach of this Agreement if (i) District mails and faxes to Construction Manager a written notice of intent to terminate with explanation of the breaches and the cure necessary, and (ii) Construction Manager does not cure, or offer a reasonable plan to cure, the default within five (5) calendar days of issuance of the written notice of intent to terminate.

B. In the event of termination by District, the Construction Manager shall be compensated pursuant to Section 2, above, for all services satisfactorily performed through the termination date.

**6. HOLD HARMLESS/INDEMNIFICATION.** Construction Manager shall indemnify, defend and hold harmless the District, its Board of Trustees, officers, agents, and employees from any and all claims, damages, losses, liability, causes of action and demands, including reasonable attorney's fees and costs, incurred in connection with or in any manner arising out of Construction Manager's performance of, or failure to perform, any duties under this Agreement or the law, including but not limited to breaches of the applicable standard of care.

**7. STATUS OF CONSTRUCTION MANAGER AND RELATIONSHIP TO DISTRICT.** The Construction Manager shall be District's principal agent in providing the construction management services described in this Agreement. In providing the construction management services contemplated by this Agreement, the Construction Manager shall, on behalf of the District, maintain a professional working relationship with the District, all Contractors, the Architect and all others. The Construction Manager's primary obligation of loyalty is to the District, not the Architect, a Contractor, a subconsultant, or another party. When performing its duties and responsibilities on the Project, the Construction Manager must act and make recommendations in accordance with the District's best interests, and not the Construction Manager's, Architect's, a Contractor's, or another party's best interests. This duty of loyalty to the District requires the Construction Manager to, among other things, notify the District of any potential deficiencies in Architect's design of the Project or potential breaches by Architect of its obligations to the District under law (including the standard of care) or the

agreement between the District and Architect. This duty of loyalty to District also requires the Construction Manager to, among other things, notify District of any potential deficiencies in Contractor's work or potential breaches by Contractor of its obligations to the District under law or under the agreement between the District and Contractor.

As Construction Manager, the Construction Manager is not an employee of the District. Construction Manager is understood to be an independent contractor. Nothing in this Agreement shall preclude Construction Manager from performing similar services for other persons or entities.

Nothing contained in this Agreement shall be deemed to create any contractual relationship between the Construction Manager and the Architect, a Contractor, or a material supplier for the Project, nor shall anything contained in this Agreement be deemed to give any third party any claim or right of action against the District, the Architect or the Construction Manager which does not otherwise exist. Nothing contained in this Agreement shall be deemed or interpreted that the Construction Manager is a construction manager "at risk."

**8. INSURANCE; OPTIONAL BONDING REQUIREMENT.** The Construction Manager shall purchase and maintain insurance that will protect the Construction Manager from the claims set forth below that may arise out of or result from the Construction Manager's performance of services or failure to perform services required by this Agreement:

- A. Claims under Workers' Compensation, disability benefits and other similar employee benefits acts that are applicable to the work performed;
- B. Claims for damages because of bodily injury, occupational sickness or disease or death of Construction Manager's employees, agents or invitees;
- C. Claims for damages because of bodily injury or death of any person;
- D. Claims for damages insured by usual personal injury liability coverage that are sustained (1) by any person as a result of an offense directly related to the employment of such person by the Construction Manager or (2) by any other person;
- E. Claims for damages, other than to the work itself, because of injury to or destruction of tangible property, including loss of use therefrom; or
- F. Claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle.

The Construction Manager's comprehensive general and automobile liability insurance shall be written for not less than the following limits of liability:

**Comprehensive General Liability**

Personal Injury:

\$3,000,000 Each Occurrence

\$5,000,000 Aggregate

Property Damage:

\$3,000,000 Each Occurrence

\$5,000,000 Aggregate

**Comprehensive Automobile Liability**

Bodily Injury:

\$1,000,000 Each Person

\$1,000,000 Each Occurrence

Property Damage:

\$1,000,000 Each Occurrence

**Errors and Omissions Insurance** – Prior to commencement of services under this Agreement, Construction Manager shall furnish to the District satisfactory proof that the Construction Manager has, for the period covered by this Agreement, errors and omissions insurance on an occurrence basis with limits of at least \$5,000,000 and a deductible not more than \$10,000.

Each policy of insurance above shall operate as primary insurance. The District, its Board of Trustees, employees and agents shall be named as additional insureds under the policies. A copy of the policies shall be provided before any work is commenced under this Agreement.

Policies shall not be canceled or reduced in coverage without 30 days prior written notice to District.

At the option of the District, the District may require a bond, or equivalent surety, not to exceed thirty percent (30%) of the total value of the prime contracts for the Project, for the purpose of assuring that the Construction Manager performs his contractual and professional services in compliance with the Agreement, including, but not limited to, preventing gaps in scope among the prime contractors and coordinating the work per design and construction specifications among the prime contractors for the Project to be on time and on budget.

**9. LICENSING REQUIREMENTS AND QUALIFICATIONS.** Construction Manager represents and warrants that Construction Manager possesses the appropriate qualifications and licenses required by all applicable provisions of law, including Government Code sections 4525, et seq.; that Construction Manager is competent and qualified to perform the services required by this Agreement; that Construction Manager has substantial expertise and experience in all aspects of construction management for projects of this type, including but not limited to construction supervision, bid evaluation, master project scheduling, cost benefit analysis, claims review and negotiation, general management and administration of construction projects, furthering of District’s interests in the management and construction of



the Project; and that Construction Manager shall perform in an expeditious and economical manner consistent with the interests of the District.

**10. PAYROLL AND WORKER'S COMPENSATION RESPONSIBILITIES.**

Construction Manager will be liable and solely responsible for paying all required taxes and workers' compensation and other obligations, including, but not limited to, federal and state income taxes and social security taxes. Construction Manager agrees to indemnify, defend and hold the District harmless from any liability which Construction Manager may incur to the Federal or State governments as a consequence of this Agreement. All payments to the Construction Manager shall be reported to the Internal Revenue Service.

**11. SUCCESSORS AND ASSIGNS.** The District and the Construction Manager, respectively, bind themselves, their successors, assigns, and representatives to the other party to this Agreement, and to the partners, successors, assigns, and legal representatives of such other party with respect to all terms of this Agreement. Neither District nor the Construction Manager shall assign or transfer any interest in this Agreement without the written consent of the other.

**12. SEVERABILITY.** If any provision of this Agreement shall be held invalid or unenforceable by a court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision of this Agreement.

**13. AMENDMENTS.** This Agreement cannot be changed or supplemented orally and may be modified or superseded only by written instrument executed by all parties.

**14. EXECUTION BY FACSIMILE OR IN COUNTERPARTS; WARRANTY OF AUTHORITY.** This Agreement may be executed in counterparts such that the signatures may appear on separate signature pages. Copies of signatures shall have the same force and effect as original signatures. A copy, or an original, with all signatures appended together, shall be deemed a fully executed Agreement. By execution of this Agreement, each person signing on behalf of an entity warrants that this Agreement is executed on behalf of a valid legal entity; that such entity possesses the full right and authority to undertake any action this Agreement contemplates; that the execution of this Agreement by the signatory for a Party has been duly and properly authorized by such entity on whose behalf said Agreement is executed, in accordance with all applicable laws, regulations, agreements and procedures governing the authority of such person to execute this Agreement on behalf of such entity; and that the consent of all persons or entities whatsoever necessary to the Parties due execution of this Agreement has been obtained. This Agreement shall be binding on the Parties when all of the Parties have fully executed this Agreement (where each of the parties has signed at least one counterpart). The Parties agree that the District will not have fully executed this Agreement until the District's governing body has approved or ratified the Agreement and the designated District official has signed it.

**15. INTERPRETATION.** The language of all parts of this Agreement shall, in all cases, be construed as a whole, according to its fair meaning, and not strictly for or against either party.

**16. NOTICES.** All payments and any notices or communications under this Agreement shall be in writing and shall be deemed to be duly given if served personally on the party to whom it is directed or shall be deemed served forty-eight (48) hours after the same has been deposited in the United States Mail, certified or registered mail, return receipt requested, or overnight mail, postage prepaid, and addressed in the case of:

Construction: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Address: \_\_\_\_\_

District: Golden Valley Unified School District  
Name: Rodney Wallace  
Title: Superintendent  
Address: 37479 Avenue 12, Madera, CA 93636

Service of any notices may also be made by facsimile with proof of transmission or by express mail with proof of delivery. Service of notice by email may be made if acknowledged by a return email from the party to whom the notice is sent.

**17. GOVERNING LAW.** This Agreement shall be governed and construed in accordance with the laws of the State of California, excluding its choice of law rules. Any action or proceeding seeking any relief under, or with respect to, this Agreement shall be brought solely in the Superior Court of the State of California for the County in which the District maintains its District office, subject to transfer of venue under applicable State law, provided that nothing in this Agreement shall constitute a waiver of immunity to suit by the District.

**18. WORK RECORDS.** All documents, daily logs, and any other written work product generated by Construction Manager shall be deemed to the sole and exclusive property of District.

**19. ENTIRE AGREEMENT.** This Agreement constitutes the entire Agreement between the parties and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement may be amended only by written instruction signed by both the District and Construction Manager.

**GOLDEN VALLEY UNIFIED SCHOOL DISTRICT**

**CONSTRUCTION MANAGER**

By: \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

Its: \_\_\_\_\_

**EXHIBIT "B"**

Fee Schedule

CONSTRUCTION MANAGEMENT FEE SCHEDULE

New Construction		Modernization	
Construction		Construction	
Project(s) Range	Fee	Project(s) Range	Fee
\$10 to \$25M	3.25%	\$0 to \$5M	4.25%
\$25M and greater	3.00%	\$5 to \$10M	3.75%
		\$10-\$20M	3.50%
		\$20M and greater	3.25%

GENERAL CONDITIONS FEE SCHEDULE

General Conditions Matrix	
Construction Cost	General Condition Percentage
\$5,000,000.00 and Under	10% - 12%
\$10,000,000.00 to \$20,000,000.00	6% - 8%
\$20,000,000.00 to \$60,000,000.00	4% - 6%
\$65,000,000.00 and Above	4%