

**REQUEST FOR QUALIFICATIONS AND PROPOSALS
PROGRAM AND CONSTRUCTION MANAGEMENT SERVICES
RFQ/P #**

The Rio School District is requesting qualified persons, firms, partnerships, corporations, associations, or professional organizations to provide to provide their qualifications and proposals to provide a comprehensive program management or construction management services or both to the District for the new construction of the project now known as River Park West K-8 STEAM school and modernization starting with four (4) schools.

Respondents to this RFQ/P should mail or deliver three (3) bound copies, one (1) unbound copy and one (1) electronic copy on CD or flash drive of their Submittals, as further described herein, to:

**Kristen Pifko
Assistant Superintendent of Business Services
Rio School District
2500 E. Vineyard Avenue
Oxnard, CA 93036**

ALL RESPONSES ARE DUE BY 2:00P.M., ON January 7, 2015.

FAX OR EMAIL RESPONSES WILL NOT BE ACCEPTED.

If you have questions regarding this RFQ/P please email Kristen Pifko, Assistant Superintendent of Business Services on or before Decmber 22, 2014 at 4:00 p.m. at kpifko@rioschools.org. Questions must be submitted in writing and answers will be posted on the District website by 4:00 p.m. on December 23, 2014.

Each Response must conform and be responsive to the requirements set forth in this RFQ/P.

The District reserves the right to waive any informalities or irregularities in received Submittals. Further, the District reserves the right to reject any and all Responses and to negotiate contract terms with one or more respondent firms for one or more of the work items.

REQUEST FOR QUALIFICATIONS AND PROPOSALS

BACKGROUND

Rio School ("District") serves the unincorporated community of El Rio, the RiverPark development and portions of the City of Oxnard. The District strives to provide world-class education to its more than 4,600 students through six elementary schools, two middle schools. The District passed " G," a \$38.5 million general obligation (G.O.) bond program.

The District is providing this Request for Qualifications and Proposals ("RFQ/P") asking experienced entities to submit their qualifications to provide comprehensive program management or construction management services or both to the District through the new construction of the project now known as River Park West K-8 STEAM school and modernization starting with four (4) schools ("Program").

This RFQ/P defines the program and construction management services sought and generally outlines the Project requirements. Briefly stated, the District is seeking experienced and proven management professionals to provide program management or construction management services or both for the Measure G Bond Program that will enhance the operational objectives of the District.

The District will conduct a pre-qualification meeting on December 22, 2014 at 11:00 a.m. at the District Office located at 2500 E. Vineyard Avenue, Oxnard, CA 93036.

LIMITATIONS

This RFQ/P is neither a formal request for bids, nor an offer by the District to contract with any party responding to this RFQ/P. The District makes no representation that participation in the RFQ/P process will lead to an award of contract or any consideration whatsoever. The District shall in no event be responsible for the cost of preparing any proposal in response to this RFQ/P. The awarding of the program and constructions management contract(s), if at all, is at the sole discretion of the District.

FULL OPPORTUNITY

The District hereby affirmatively ensures that Disadvantaged Business Enterprises ("DBE"), Small Local Business Enterprises ("SLBE"), Small Emerging Local Business Enterprises ("SELBE"), Disabled Veterans Business Enterprises ("DVBE"), and shall be afforded full opportunity to submit SOQs in response to this RFQ/P and will not be discriminated against on the basis of race, color, gender, sexual orientation, political affiliation, age, ancestry, religion, marital status, national origin, medical condition or disability in any consideration leading to the award of the contract. No qualified disabled person shall, on the basis of disability, be excluded from participating in, be denied the benefits of, or otherwise be subjected to discrimination in any consideration leading to the award of contract.

RESTRICTIONS ON LOBBYING AND CONTACTS

From the period beginning on the date of the issuance of this RFQ/P and ending on the date of the award of the contract, if any, no person, or entity submitting in response to this RFQ/P, nor any officer, employee, representative, agent, or consultant representing such a

person or entity shall contact through any means or engage in any discussion regarding this RFQ/P, the evaluation or selection process/or the award of the contract with any member of the District, Board of Trustees, selection members, or any member of the Citizens' Oversight Committee. Any such contact shall be grounds for the disqualification of the entity submitting a response.

PROGRAM DESCRIPTION AND PROGRAM BUDGET

The new construction of one STEAM school and modernization starting with four schools identified on the District's Facilities Master Plan 2014 on the District website, <http://rioschools.org/wp-content/uploads/2014/09/rio-master-plan-version-9.1.14.pdf> .

The District has established a bond program budget of \$38.5 million to address the needs of the student population through new construction, modernization and renovation projects at the District's elementary and middle schools.

The design of the Program shall, as a starting point, be based on the guiding principles established by the District, which are Safety, Learning Environment, Fiscal Responsibility, Flexibility, Accessibility, Maintainability and Sustainability.

PROGRAM SCHEDULE

See attached.

INSTRUCTIONS FOR SUBMITTING PROPOSALS

1. GENERAL

The District intends to select one or more firms that best meet the District's needs to perform the planning, program management, and project/construction management services as described in this Request for Qualifications. The District may assign all or parts of the work described below to one or more of the successful firm(s). The criteria on which the District makes its determination will be based on ability and experience as described herein.

The firm(s) to be selected as a result of the later RFP process may be responsible for the following general categories of work:

- Planning: Verify and update the cost estimates in the Facilities Master Plan and the Project List as provided by the assigned Architect; advise the District on phasing, grouping of projects, and other cost-saving methods.
- Program Management: Work with the District on overall scheduling, budgets, and communication for all bond Measure G projects; report to the District on program and individual project status on a regular basis.
- Project/Construction Management: Provide design-phase services in conjunction with all architecture firms awarded work by the District; assist with bidding; manage the construction contracts; close out the projects. The District may utilize multiple-prime bidding on these projects.

The phasing and scoping of each project will be determined in the planning process.

The District may contract immediately, or during the length of the Measure G Bond Program, with a single firm to provide all of the services described herein, but it may elect to divide the scope of work into phases as follows:

- Project Management for all projects;
- Program Management for all sites; or
- Program Management/Construction services for the various projects and school sites.

2. RESPONSIBILITIES OF PROGRAM MANAGER

2.1 INITIAL PLANNING PHASE

Advise the District on phasing, grouping of projects, and other potential cost-saving approaches to construction. Develop scopes of work, including recommendations regarding interim housing and deferred maintenance. Assist and advise the District in prioritizing projects.

Verify and update the cost estimates in the Facilities Master Plan and the Bond Project List.

Develop master project communication plan, incorporating project participants, District administration, site personnel, community, parents, and website.

Based on performance in Initial Planning phase, the District may approve going forward with one or more phases of the following work.

2.2 PROGRAM MANAGEMENT DUTIES, IF SELECTED

Work with the District to develop scope, sequencing, scheduling, budgets, and communication for all Measure G Bond projects. Develop and maintain reporting systems for each of those components. Report to the District on program and project status on a regular basis throughout the course of the bond program.

Advise District regarding project delivery systems and bid packaging strategies. Make recommendations to District regarding ongoing modifications to the Master Plan and bond funded projects to account for changes in sequencing, delays, and cost issues.

Assist in selection of and communication with architects and Project Inspectors. Advise on and coordinate work of subconsultants such as soils and geotechnical consultants, environmental consultants, and other consultants not under the selected Architect. Participate in planning workshops. Attend meetings with site committees. Provide training to District staff and Board of Trustees.

Advise District on an ongoing basis regarding communication with state and other agencies involved in construction process. Assist as requested with compliance with environmental and other regulatory requirements. Assist as requested, on an extra services basis, with applications for state funding.

2.3 PROJECT MANAGEMENT/CONSTRUCTION MANAGEMENT DUTIES

2.3.1 Design Phase

Work with the architects to conform and refine designs to correlate designs to budget and Master Plan. Perform constructability reviews at appropriate stages of design. Review and reconcile cost estimates from the assigned Architect. Assist with verification of site conditions. Assist in segregating bid packages for maximum cost-effectiveness for the District. Advise regarding owner-supplied equipment and other potential cost-saving measures.

Report to District on status of design and state approval versus the schedule for each project. Attend meetings to coordinate design efforts for the bond program. Assist in identifying and obtaining all necessary approvals.

2.3.2 Pre-Construction and Bidding Phase

Develop master schedules and construction schedules for each project. Develop budgets for each project based on construction cost estimates.

Conduct pre-bid conferences. Schedule and conduct preconstruction meetings. Assist with prequalification and evaluating responses. Conduct bidding and report to District on results. Assist and advise regarding bid protests. Coordinate contracting with low bidders, including evaluating bonds and insurance.

2.3.3 Construction Phase

Administer and coordinate the work of the contractors on a daily basis. Enforce performance, scheduling and notice requirements. Monitor schedule and cost information for each prime contractor on each project. Document the progress and costs of each project. Report and advise proactively on potential schedule and budget variances and impacts. Recommend potential solutions to schedule and cost problems.

Work cooperatively with District, architects, and contractors to ensure that projects are delivered on time and within budget. Attend weekly job site meetings and prepare and circulate minutes. Evaluate and process payment applications and verify progress. Evaluate and process change order requests.

Evaluate and track requests for information ("RFIs") and responses. Advise District as to status and criticality of RFIs. Work with District team to develop lists of incomplete or unsatisfactory work ("punchlists").

Submit necessary reports to state and local authorities. Ensure that all other project participants submit necessary closeout documentation.

2.3.4 Post-Construction Phase

Ensure completion of punchlist work. Coordinate contractor closeout requirements, including guarantees, keys, manuals, as-built drawings, record drawings, daily logs, and verified reports. Set up programs to obtain and monitor warranty work. Advise District staff on systems operations and training. Advise on closeout of projects.

3. REQUIRED INFORMATION IN SUBMITTAL

All materials submitted to the District in response to this Request for Qualifications shall remain property of the District unless portions of the materials are designated as proprietary at the time of submittal, and are specifically requested to be returned.

Extensive experience with the public school construction building and design codes and regulations is **mandatory**.

3.1 FORMAT

Material must be in 8½ x 11 inch format. Submittal shall include divider tabs labeled with boldface headers below (e.g. the first tab would be entitled "Cover Letter," the second tab would be entitled "Firm Information," etc.) Each submittal shall not contain more than thirty (30) pages, excluding front and back covers and tabs. Submittals containing more than thirty (30) single sided pages or fifteen (15) double sided pages will not be considered.

Three (3) bound copies, one (1) unbound copy, and one (1) electronic copy of the Submittal shall be submitted. The unbound copy marked "Copy for Reproduction" shall not have divider sheets or tabs; shall have text printed on one side only (i.e. no back to back pages); shall remove pages with proprietary information; and shall contain a cover sheet listing the firm's name, the total number of pages, and identification of those pages that were removed due to proprietary information.

3.2 COVER LETTER

Provide a letter of introduction signed by an authorized officer of the organization. Identify the type of work the firm is submitting for using descriptions in "Scope of Services" section. If a proposal for multiple services is being submitted, then list all services to be listed; separate proposals are not required. Clearly identify the individual(s) who are authorized to speak for the firm during the evaluation process.

Must include the following statement:

"The [firm's name] received a copy of the standardized Program and Construction Management Services Agreement used by Rio School District, including the indemnity provisions and professional liability insurance provisions contained therein. If given the opportunity to contract with the District, the [firm's name] has no objections to the use of these agreements."

3.3 FIRM INFORMATION

Provide a brief history of your firm, and, if a joint venture, of each participating firm. Identify legal form, ownership, and senior officials of company(ies). Describe number of years in business and types of business conducted. Identify proportion of program and construction management of overall business, and of public school projects of overall business.

Identify each public school bond program and project performed by your firm(s) in the past 5 years, including:

- Name of program/project and district;
- Contact person and telephone number at district;
- Firm person in charge of each project;
- Dollar value of each project.

List all litigation arising from any high school project on which your firm(s) provided program or project/construction management services in the past 5 years. State the issues in litigation, the status of litigation, names of parties, and outcome.

3.4 PROPOSED PROJECT TEAM

The selected firm shall employ at its expense professionals properly licensed and skilled in the execution of the functions required for the planning, program management, and project/construction management of the projects. All services are to be performed under the direction and control of an architect, registered engineer, and/or contractor, each of whom is required to be licensed by the State of California.

Identify the key personnel you would assign to the District's program for each phase of work, including their roles. Include at least the overall Program Director, Program Manager(s), and Project Managers. Describe for each his or her experience with K-8 and STEAM school construction projects, including identifying those projects for the past 5 years. List license numbers and dates.

3.5 PROPOSED METHODOLOGY AND CAPABILITIES

Describe the firm's technical capabilities for scheduling, budgeting, cost estimating review and reconciliation, document control, and public information websites. Provide recent examples of reports for each category.

Describe the firm's approach to and experience with energy management/conservation, integrated communications systems, "green buildings," and evaluating technology infrastructure.

Describe the firm's experience with state and other agencies involved in the planning, design, and construction process for K-8 and STEAM school projects. Describe the firm's quality control systems, including ability to monitor subconsultants, if any.

Describe the firm's experience with lease-leaseback projects, if any.

3.6 FEE PROPOSAL

Fee proposal shall include hourly billing rates by position (proposed); staffing plan (proposed); and reimbursable schedule (proposed). Proposal shall provide a Schedule of Rates ("SOR") by position, by company entity, for each position proposed by your firm, whether you are submitting as a prime with subconsultant(s), or as joint venture or partnership. The SOR shall consist of a list of proposed project staff with proposed hourly billing rates and the level of effort of each identified position for the duration of the initial contract period. Billing rates (proposed) and staffing plan (proposed) will be subject to negotiation and justification as to substantiation of billing rates and staffing as to roles and

responsibilities, time commitment (full-time/part-time), and timing of start dates and end dates. The fee proposal should identify proposed reimbursables by category (i.e. offices, computers and peripherals, printers, fax machines, photocopy equipment, other as identified by proposing entity). Travel and related expenses shall be reimbursed in accordance with the federal government Joint Travel Regulation. A form of the Agreement has been distributed with this RFQ/P. The final form of the Agreement will incorporate the final scope of work and not-to-exceed fee negotiated between the District and selected firm as Appendix "A." Any proposed changes to the form of Agreement will have to be identified prior to the interview phase as will be indicated by the District as changes will not be entertained after the selection process is complete.

4. DISTRICT'S EVALUATION PROCESS

4.1 SCHEDULE

DATE	EVENT	TIME DEADLINE
December 15, 2014	Release of RFQ/P #_____.	
December 22, 2014	Pre-qualification meeting at	11:00 a.m.
December 22, 2014	Deadline for submission of written questions to District concerning RFQ/P #_____.	4:00 p.m.
January 7, 2015	Deadline for all submissions in response to RFQ/P #_____.	2:00 p.m.
Week of January 15, 2015	Interviews of short-listed firms, if any.	Begin 9:00 a.m. / continue as needed

The District reserves the right to change the dates on any schedule stated herein or attached without prior notice.

4.2 SELECTION OF FINALISTS

Based on its selection committee will select a group of up to three finalists for further evaluation. The criteria for selecting finalists may include, without limitation:

- Experience and performance history of the firm with similar programs;
- Experience and results of proposed personnel;
- References from clients contacted by the District;
- Technical capabilities and track record of their use, and
- Overall responsiveness of the proposal.

The District may perform investigations of proposing parties that extend beyond contacting the references identified in the proposals.

4.3 INTERVIEWS

The finalists who elect to pursue the work with the District may be invited to meet with the District's selection committee. The key proposed project staff will be expected to attend the interview. The interview will start with an opportunity for the firm to present its qualifications and its project team. The interview will be an opportunity for the District selection committee to review the proposal, the firm's history, and other matters the committee deems relevant to selecting the firm. The committee may inquire as to the firm's suggested approaches to the projects and the issues identified in this RFQ/P.

Any comments or objections to that form of agreement attached hereto as Appendix "A" shall be provided in writing before the interview, and may be the subject of inquiry at the interview.

The District may perform investigations of proposing firms that extends beyond contacting the districts identified in the proposals. Following the interviews, the selection committee will make recommendations to District staff and the Board regarding the candidates. The criteria for these recommendations will include those identified above.

4.4 FINAL DETERMINATION AND AWARD

The District reserves the right to contract with any entity responding to this RFQ/P for all or portions of the above-described phases, to reject any proposal as non-responsive, and not to contract with any firm for the services described herein. The District makes no representation that participation in the RFQ/P process will lead to an award of contract or any consideration whatsoever. The District reserves the right to seek proposals from or to contract with any firm not participating in this process. The District shall in no event be responsible for the cost of preparing any proposal in response to this RFQ/P.

The District may, at its option, determine to award contract(s) for only phases of the work or for only portions of the scopes of work identified hereinafter. In such case, the successful proposing firm will be given the option not to agree to enter into the contract and the District will retain the right to negotiate with any other proposing firm selected as a finalist. If no finalist is willing to enter into a contract for the reduced scope of work the District will retain the right to enter into negotiations with any other firm responding to the RFQ/P.

THANK YOU FOR YOUR INTEREST IN THIS EXCITING PROGRAM!

AGREEMENT FOR PROGRAM AND CONSTRUCTION MANAGEMENT SERVICES

RIO SCHOOL DISTRICT

AND

[DATE]

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AGREEMENT FOR PROGRAM AND CONSTRUCTION MANAGEMENT SERVICES

This Agreement for Program and Construction Management Services ("Agreement") is made as of the _____ day of _____ in the year 2015, between the Rio School District, a California school district ("District") and _____ ("Program and Construction Manager") (both collectively "Parties"), for the District's Measure G Bond Program ("Program"):

The administration of the Program, including oversight and coordination of the projects comprising the Program and at the District's discretion, construction, administration of projects that comprise the Program.

The Program may include multiple projects, each with multiple components. Any one of the components or combination thereof may be changed, including terminated, in the same manner as the Projects or the Program, as indicated herein, without changing in any way the remaining component(s). The provisions of this Agreement shall apply to each component without regard to the status of the remaining component(s). Program and Construction Manager shall invoice for each component separately and District shall compensate Program and Construction Manager for each component separately on a proportionate basis based on the level and scope of work completed for each component.

That for and in consideration of the mutual covenants herein contained, the Parties hereto agree as follows:

Article 1. Definitions

- 1.1. In addition to the definitions above, the following definitions for words or phrases shall apply when used in this Agreement, including all Exhibits:
 - 1.1.1. **Agreement:** The Agreement consists exclusively of this document and all identified exhibits attached and incorporated by reference.
 - 1.1.2. **Architect:** The architect(s) that the District designates as being the architect(s) for all or a portion of the Program, including all consultants to the Architect(s).
 - 1.1.3. **Construction Budget:** The total amount indicated by the District for the Program and for each Project plus all other costs, including design, construction, administration, financing, and all other costs.
 - 1.1.4. **Construction Cost Estimate:** The total cost to District of all elements of each Project designed or specified by the Architect, as adjusted at the end of each design phase in accordance with this Agreement. The Construction Cost Estimate does not include the compensation of the Program and Construction Manager, the Architect and the Architect's consultants, any Program and Construction Manager, the cost of the land, rights-of-way, financing or other costs which are the responsibility of the District, including construction management.
 - 1.1.5. **Consultant(s):** Any and all consultant(s), sub-consultant(s), subcontractor(s), or agent(s) to the Program and Construction Manager.

- 1.1.6. **Design Team:** The Architect(s) that the District designates as being the architect(s) for all or a portion of the Program, including all consultants to the Architect(s), plus all engineer(s) or other designer(s), who have a responsibility to the District to design all or a portion of the Program either directly or as a subconsultant or subcontractor.
- 1.1.7. **District Representative:** The individual identified herein that is authorized to act on the District's behalf with respect to the Program.
- 1.1.8. **DSA:** The Division of the State Architect.
- 1.1.9. **Program Budget:** The total amount available for all costs related to the Program including, but not limited to, Program design, Program administration, Program financing, the services pursuant to this Agreement, and the construction of the Program. The Program Budget is the sum of all the Construction Budgets. The Program Budget is derived from the funds designated by the District for the Program; thus the Program and Construction Manager shall ensure that no additional funds are necessary for the Program. The District's Board may, at its sole discretion, determine to expand the Program Budget based on receipt of additional funding.
- 1.1.10. **Service(s):** All labor, materials, supervision, services, tasks, and work that the Program and Construction Manager is required to perform and that are required by, or reasonably inferred from, the Agreement, and that are necessary for the design and completion of each Project.

Article 2. Scope, Responsibilities and Services of Program and Construction Manager

- 2.1. **Scope:** Program and Construction Manager shall provide the Services described herein and under **Exhibit "A"** for the Program. The parties agree that the Program and Construction Manager's Services described herein are based on a construction manager / general contractor structure on this Project. The District reserves the right to change this structure including, without limitation, utilizing a lease-leaseback structure.
- 2.2. Program and Construction Manager's Services shall include, but not be limited to:
 - 2.2.1. Providing the District with budget recommendations, based on documented estimates, for the Projects. The District's Board shall make the final decisions as to all budgets.
 - 2.2.2. Providing the District with recommendations for all pre-design and preconstruction testing and analysis necessary, in Program and Construction Manager's opinion, to ensure that the District's Program is completed within the Program Budget.
- 2.3. **Review of General Obligation Bond Program Report and Education Master Plan:** Program and Construction Manager shall review the General Obligation

Bond Program Report and Education Master Plans for the District and other written materials made available by the District to Program and Construction Manager to fully understand the nature, extent and intent of the General Obligation Bond Program Report and the Education Master Plan and the Projects.

- 2.4. Review of Measure G: Program and Construction Manager shall review Measure G and other written materials made available by the District to Program and Construction Manager which relate to Measure G to fully understand the extent of funding available to implement the General Obligation Bond Program Report plans for the District, the anticipated schedule for issuance of Bonds under Measure G relative to the anticipated design, bidding and construction of projects.
- 2.5. Coordination: In the performance of Program and Construction Manager's services under this Agreement, Program and Construction Manager agrees that it will maintain such coordination with District personnel and/or its designated representatives as may be requested and desirable. This shall include, without limitation, coordination with all members of the District's design team, and the persons responsible for operation of the District's Project Labor Agreement, if any. If the Program and Construction Manager employs sub-consultant(s), the Program and Construction Manager shall ensure that its contract(s) with its sub-consultant(s) include language notifying the sub-consultant(s) of the District's Project Labor Agreement, if any.
- 2.6. Program and Construction Manager's Services: Program and Construction Manager shall act as the District's agent to render the services and furnish the work as described in **Exhibit "A,"** which will commence upon the receipt of a Notice to Proceed signed by the District Representative. Program and Construction Manager's services will be completed in accordance with the schedule attached as **Exhibit "C."**
- 2.7. Should the District's Board determine to expand the scope of the Program and/or supplement the Program Budget based upon availability of additional funds, Program and Construction Manager agrees to perform the additional scope of work under the fee and cost terms of this Agreement.
- 2.8. To the maximum extent permissible by law, Program and Construction Manager will establish and assist the District in enforcing program(s) that will result in economic advantage to the local small business community.
- 2.9. Conflicts of Interest Prohibited: The Program and Construction Manager shall not be permitted to submit proposals or otherwise seek contracts for the following services to be procured by the District in connection with any Project: Design Professional, Project Construction Management, IOR or Test/Inspection. If the Program and Construction Manager identifies potential Design Professionals, Project Construction Managers, Project Inspectors or Test/Inspection services in connection with a Project, the Program and Construction Manager shall affirmatively and unequivocally represent and warrant to the District that neither the Program and Construction Manager nor any person who holds any equity interest in Program and Construction Manager's organization is a former or current holder of any equity interest in the firm identified and that neither the Program and Construction Manager

nor any holder of any equity interest in the Program and Construction Manager's organization has any financial interest in the firm identified. The District reserves the sole discretion to waive this subsection's requirement on a case-by-case basis.

Article 3. Program and Construction Manager Staff

- 3.1. The Program and Construction Manager has been selected to perform the work herein because of the skills and expertise of key individuals.
- 3.2. The Program and Construction Manager agrees that the following key people in Program and Construction Manager's firm shall be associated with the Project in the following capacities:

Principal In Charge: _____
Project Director: _____
Project Manager: _____
Asst. Project Manager: _____
Other: _____
Other: _____
Other: _____

- 3.3. The Program and Construction Manager shall not change any of the key personnel listed above without prior written approval by District, unless said personnel cease to be employed by Program and Construction Manager. In either case, District shall be allowed to interview and approve replacement personnel.
- 3.4. If any designated lead or key person fails to perform to the satisfaction of the District, then upon written notice the Program and Construction Manager shall immediately remove that person from the Project and provide a temporary replacement. Program and Construction Manager shall within seven (7) days provide a permanent replacement person acceptable to the District. All lead or key personnel for any Consultant must also be designated by the consultant and are subject to all conditions previously stated in this paragraph.
- 3.5. Program and Construction Manager represents that the Program and Construction Manager has no existing interest and will not acquire any interest, direct or indirect, which could conflict in any manner or degree with the performance of services required under this Agreement and that no person having any such interest shall be employed by Program and Construction Manager.

Article 4. Schedule of Work

The Program and Construction Manager shall commence work under this Agreement upon receipt of a Notice to Proceed and shall prosecute the work diligently as described in **Exhibit "A"** in accordance with the schedule attached as **Exhibit "C."** Time is of the essence and failure of Program and Construction Manager to perform work on time as specified in this Agreement is a material breach of this Agreement. If the time to complete its scope of work under Exhibit "C" exceeds five (5) years, the District may, at its sole

discretion, extend the term of this contract for five separate twelve-month option periods by providing written notice to the Program and Construction Manager not less than ninety (90) days before the contract expiration date. The total duration of any associated contract shall not exceed five (5) years.

Article 5. Program Budget; Construction Cost Estimates

- 5.1. The Program and Construction Manager shall have responsibility to develop, review, and reconcile each Project Construction Cost Estimate with the Architect and the District throughout the design process and construction. Program and Construction Manager shall develop and present for Board Approval the Program Budget and each component thereof. Program and Construction Manager shall revise these until the Board accepts a final Program Budget and all the components thereof.
- 5.2. Program and Construction Manager shall specify all pre-design and pre-construction investigations and analyses necessary to prevent cost overruns, differing site conditions claims, other construction claims, design omissions, and budget overruns.
- 5.3. The Construction Cost Estimate shall be the total cost to District of all elements of the Project designed or specified by the Project design professional(s). The Construction Cost Estimate does not include the compensation of the Program and Construction Manager, the Project design professional(s), sub-consultants, the cost of the land, rights-of-way, financing or other costs which are the responsibility of the District.
- 5.4. Program and Construction Manager shall work cooperatively with the Project design professional(s) during the Schematic Design Phase, Design Development Phase, and Construction Documents Phase, as described in **Exhibit "A,"** so that the construction cost of the work designed by the Project design professional(s) will not exceed the Construction Cost Estimate, as may be adjusted subsequently with the District's written approval. The Program and Construction Manager shall notify the District if it believes the construction cost of the work by the Project design profession(s) will exceed the Construction Cost Estimate. The Program and Construction Manager, however, shall not perform or be responsible for any design or architectural services. The Program and Construction Manager shall notify the District immediately if it believes the construction cost of a Project will exceed the Construction Cost Estimate for that Project.
- 5.5. Evaluations of the District's Program Budget, and preliminary and detailed cost estimates prepared by the Program and Construction Manager, represent the Program and Construction Manager's best judgment as a professional familiar with the construction industry in the geographic area of the District.
- 5.6. If the Bidding Phase has not commenced within ninety (90) days after DSA approval, the Construction Cost Estimate shall be adjusted to reflect changes in the general level of prices in the construction industry between the date of submission of the Construction Documents to the District and the date on which proposals are sought.

- 5.7. Program and Construction Manager specifically acknowledges that the District is relying on Program and Construction Manager to monitor, review, verify, and revise each Project Construction Cost Budget at multiple instances throughout the Program. If any of the following events occur:
- 5.7.1. Program and Construction Manager also specifically acknowledges that the District shall have the right to take any or all of the options listed below for one or more of the Projects.
 - 5.7.2. If the lowest responsive base bid received is in excess of ten percent (10%) of the Construction Cost Estimate, or
 - 5.7.3. If the combined total of base bid and all additive alternates come in fifteen percent (15%) or more under the Construction Cost Estimate, or
 - 5.7.4. If the Construction Cost Estimate increases in phases subsequent to the Schematic Design Phase due to reasonably foreseeable changes in the condition of the construction market in the county in which the District is located, in so far as these have not been caused by Acts of God, earthquakes, strikes, war, or energy shortages due to uncontrollable events in the world economy,
 - 5.7.5. Then the District, in its sole discretion, has one or a combination of the following alternatives:
 - 5.7.5.1. Give the Program and Construction Manager written approval on an agreed adjustment to the Construction Cost Estimate.
 - 5.7.5.2. Authorize the Program and Construction Manager to re-negotiate, where appropriate, or re-bid one or more projects within three (3) months time (exclusive of District and other agencies' review time) at no additional cost to the District.
 - 5.7.5.3. Terminate this Agreement, without further obligation by either party.
 - 5.7.5.4. Instruct the Project design professional(s) to revise the drawings and specifications to bring the Project(s) within the Construction Cost Estimate for re-bidding, with Program and Construction Manager's performing cost estimating, value engineering, and/or bidding support at no additional cost to the District.
- 5.8. The Construction Cost Estimate for each project shall be reconciled with the Program and Construction Manager's construction cost estimate for that Project and adjusted at the completion of each design phase for that Project.

Article 6. Fee and Method of Payment

- 6.1. District shall pay Program and Construction Manager
 an amount equal to _____ dollars
 (\$ _____)

for all services contracted for under this Agreement based on the Fee Schedule attached to **Exhibit "D."**

- 6.2. District shall pay Program and Construction Manager the Fee pursuant to the provisions herein and in **Exhibit "D."**
- 6.3. Program and Construction Manager shall bill its work under this Agreement on a monthly time and materials basis in accordance with **Exhibit "D."**
- 6.4. No increase in fee will be due from change orders generated during the construction period to the extent caused by Program and Construction Manager's error.
- 6.5. The Program and Construction Manager's fee set forth in this Agreement shall be full compensation for all of Program and Construction Manager's Services incurred in the performance hereof as indicated in **Exhibit "D"**, including, without limitation, all costs for personnel, travel within two hundred (200) miles of the Project location (travel reimbursements must be approved by the District prior to travel), offices, per diem expenses, printing, providing, or shipping of deliverables in the quantities set forth in **Exhibit "A."**
The parties acknowledge and agree, in general, that the Program has an existing inventory (i.e. offices, computers and peripherals, printers, fax machines, photocopy equipment, etc.) and significant expenditures in these areas are not anticipated.

Article 7. Payment for Extra Services

- 7.1. District-authorized Services outside of the scope in **Exhibit "A"** or District-authorized reimbursables not included in Program and Construction Manager's fee are "Extra Services." Any charges for Extra Services shall be paid by the District as described in **Exhibit "B"** only upon certification that the claimed Extra Services were authorized in writing in advance by the District and that the Extra Services have been satisfactorily completed.
- 7.2. A written proposal describing the proposed scope of services and listing the personnel, labor duration, rates, and cost shall be submitted by the Program and Construction Manager to the District for written approval before proceeding with any Extra Services.

Article 8. Ownership of Data

After completion of each project or after termination of this Agreement, Program and Construction Manager shall deliver to District a complete set of Project records, including without limitation all documents generated by Program and Construction Manager, copies of all documents exchanged with or copied to or from all other Project participants, and all closeout documents. Said Project records shall be indexed and appropriately organized for easy use by District personnel. All Project records are property of the District, whether or not those records are in the Program and Construction Manager's possession.

Article 9. Termination of Contract

- 9.1. If Program and Construction Manager fails to perform Program and Construction Manager's duties to the satisfaction of the District, or if Program and Construction Manager fails to fulfill in a timely and professional manner Program and Construction Manager's material obligations under this Agreement, or if Program and Construction Manager shall violate any of the material terms or provisions of this Agreement, the District shall have the right to terminate this Agreement effective immediately upon the District giving written notice thereof to the Program and Construction Manager. In the event of a termination pursuant to this subdivision, Program and Construction Manager may invoice District for all work performed until the notice of termination, but District shall have the right to withhold payment and deduct any amounts equal to the District's costs because of Program and Construction Manager's actions, errors, or omissions that caused the District to terminate the Program and Construction Manager.
- 9.2. District shall have the right in its sole discretion to terminate the Agreement for its own convenience. In the event of a termination for convenience, Program and Construction Manager may invoice District and District shall pay all undisputed invoice(s) for work performed until the notice of termination. This shall be the only amount(s) potentially owing to Program and Construction Manager's if there is a termination for convenience.
- 9.3. The Program and Construction Manager has the right to terminate this Agreement if the District does not fulfill its material obligations under this Agreement and fails to cure such material default within sixty (60) days, or if the default cannot be cured within sixty (60) days, commence to cure such default, diligently pursue such cure, and complete the cure within a reasonable time following written notice and demand from Program and Construction Manager. Such termination shall be effective after receipt of written notice from Program and Construction Manager to the District.
- 9.4. Except as indicated in this Article, termination shall have no effect upon any of the rights and obligations of the Parties arising out of any transaction occurring prior to the effective date of such termination.
- 9.5. If, at any time in the progress of the Program, the governing board of the District determines that the Program should be terminated, the Program and Construction Manager, upon written notice from the District of such termination, shall immediately cease work on the Program. The District shall pay the Program and Construction Manager only the fee associated with the services provided, since the last invoice that has been paid and up to the notice of termination.
- 9.6. If the Program is suspended by the District for more than one hundred eighty (180) consecutive days, the Program and Construction Manager shall be compensated for services performed prior to notice of such suspension. When the Program is resumed, the schedule shall be adjusted and the Program and Construction Manager's compensation shall be equitably adjusted to provide for expenses incurred in the resumption of the Program and Construction Manager's services. Upon resumption of the Program after

suspension, the Program and Construction Manager will take all reasonable efforts to maintain the same personnel.

Article 10. Indemnity

- 10.1. To the furthest extent permitted by California law, Program and Construction Manager shall defend, indemnify and hold free and harmless the District, its agents, representative, officers, consultants, employees, trustees, and volunteers (the "indemnified parties") from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity ("Claim"), to property or persons, including personal injury and/or death, directly or indirectly arising out of, connected with, or resulting from the performance of the services, the Project, or this Agreement unless a Claim is caused by the sole negligence or willful misconduct of the indemnified parties.
- 10.2. Program and Construction Manager shall pay and satisfy any judgment, award or decree that may be rendered against the indemnified parties in any Claim. Program and Construction Manager shall also reimburse District for the cost of any settlement paid by District arising out of any Claim. Program and Construction Manager shall reimburse the indemnified parties for any and all legal expenses and costs, including attorneys' fees, expert witness fees and consultant fees, incurred by each of them in connection therewith or in enforcing the indemnity herein provided to the extent caused by the above agreement to indemnify. Program and Construction Manager's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by the indemnified parties. District shall have the right to accept or reject any legal representation that Program and Construction Manager proposes to defend the indemnified parties.

Article 11. Conduct on Project Sites and Fingerprinting

- 11.1. Unacceptable and/or loud language will not be tolerated. "Cat calls" or other derogatory language toward students or public will not be allowed.
- 11.2. Drugs, alcohol, and smoking on District property are strictly prohibited. No drugs, alcohol and/or smoking are allowed at any time in any building and/or grounds on District's property. No students, staff, visitors or contractors are to use drugs on District's property.
- 11.3. Unless the District has determined pursuant to Education Code section 45125.2 that on the basis of the scope of work in this Agreement that Program and Construction Manager and its subcontractors and employees will have only limited contact with pupils, the Program and Construction Manager and Construction shall comply with the provisions of Education Code section 45125.01 regarding the submission of employee fingerprints to the California Department of Justice and the completion of criminal background investigations of its employees. The Program and Construction Manager shall not permit any employee to have any contact with District pupils until such time as the Program and Construction Manager has verified in writing to the governing Board that the employee has not been convicted of a felony, as defined in Education Code section 45122.1. The Program and Construction Manager's responsibility shall extend to all employees, agents, and employees

or agents of its subcontracts regardless of whether those individuals are paid or unpaid, concurrently employed by the District, or acting as independent contractors of the Program and Construction Manager. Verification of compliance with this section and the Criminal Background Investigation Certification (Exhibit "E") shall be provided in writing to the District prior to each individual's commencement of employment or participation on the Program and prior to permitting contact with any student.

Article 12. Responsibilities of the District

- 12.1. The District shall examine the documents submitted by the Program and Construction Manager and shall render decisions so as to avoid unreasonable delay in the process of the Program and Construction Manager's services.
- 12.2. The District shall provide to the Program and Construction Manager complete information regarding the District's requirements for the Project.
- 12.3. The District shall retain design professional(s) whose services, duties and responsibilities shall be described in written agreement(s) between the District and design professional(s).
- 12.4. The District shall, in a timely manner, and with Program and Construction Manager's assistance, secure, submit and pay for necessary approvals, easements, assessments, permits and charges required for the construction, use, or occupancy of permanent structures or for permanent changes in existing facilities, subject to Program and Construction Manager's and/or the design professional(s) duties to recommend or provide same.
- 12.5. The District, its representatives, and consultants shall communicate with the contractor either directly or through the Program and Construction Manager.
- 12.6. During the Construction Phase of the Project, the District may require that the contractors submit all notices and communication relating to the Project directly to the Program and Construction Manager.
- 12.7. The District shall designate an officer, employee and/or other authorized representatives to act on the District's behalf with respect to the Project. The District's representative for the Project shall be available during working hours and as often as may be required to render decisions and to furnish information in a timely manner.

Article 13. Liability of District

- 13.1. Other than as provided in this Agreement, District's obligations under this Agreement shall be limited to the payment of the compensation provided in this Agreement. Notwithstanding any other provision of this Agreement, in no event shall District be liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including, but not limited to, lost profits or revenue, arising out of or in connection with this Agreement for the services performed in connection with this Agreement.

- 13.2. Any and all costs incurred by District, or for which District may become liable, to the extent caused by negligent acts or omissions of Program and Construction Manager in its performance hereunder, shall be paid to District by Program and Construction Manager as provided for herein and/or under California law.
- 13.3. District shall not be responsible for any damage to persons or property as a result of the use, misuse or failure of any equipment used by Program and Construction Manager, or by its employees, even though such equipment be furnished or loaned to Program and Construction Manager by District.
- 13.4. The Program and Construction Manager hereby waives any and all claim(s) for recovery from the District under this Agreement, which loss or damage is covered by valid and collectible insurance policies. Program and Construction Manager agrees to have its required insurance policies endorsed to prevent the invalidation of insurance coverage by reason of this waiver. This waiver shall extend to claims paid, or expenses incurred, by Program and Construction Manager's insurance company on behalf of the District.

Article 14. Insurance

14.1. Program and Construction Manager shall procure prior to commencement of the work of this Agreement and maintain for the duration of the Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Program and Construction Manager, their agents, representatives, employees and sub-consultant(s).

14.2. **Minimum Scope and Limits of Insurance:** Coverage shall be at least as broad as the following scopes and limits:

14.2.1. **Commercial General Liability.** Program and Construction Manager shall procure and maintain, during the term of this Agreement, not less than the following General Liability Insurance coverage:

Each Occurrence	Aggregate
\$ 2,000,000.00	\$ 4,000,000.00

Commercial General Liability insurance shall include products/completed operations, broad form property damage, and personal and advertising injury coverage.

Any and all subconsultants hired by Program and Construction Manager in connection with the Services described in this Contract shall maintain such insurance unless the Program and Construction Manager's insurance covers the subconsultant and its employees.

14.2.2. **Automobile Liability.** If vehicles will be driven on District property, Program and Construction Manager shall procure and maintain, during the full term of this Agreement following

Automobile Liability Insurance with the following minimum coverage limits:

Personal vehicles	\$500,000.00 combined single limit or \$100,000.00 per person / \$300,000.00 per accident
Commercial vehicles	\$1,000,000.00 combined single limit

Program and Construction Manager's and any and all subconsultant's Commercial Automobile Liability Insurance shall name the District, its employees, and school board members as additional insureds.

14.2.3. **Workers' Compensation and Employers' Liability Insurance.** Program and Construction Manager shall procure and maintain, during the term of this Agreement, Workers' Compensation Insurance, as required by California law, on all of its employees engaged in work related to the performance of this Agreement. In the case of any such work which is subcontracted, Program and Construction Manager shall require all subconsultants to provide Workers' Compensation Insurance for all of the subconsultant's employees to be engaged in such work unless such employees are covered by the protection afforded by the Program and Construction Manager's Workers' Compensation Insurance.

Program and Construction Manager and all subconsultants shall procure and maintain, during the term of this Agreement Employers' Liability insurance of \$1,000,000.

14.2.4. **Professional Liability.** Program and Construction Manager shall procure and maintain, during the term of this Agreement, Professional Liability/Errors and Omissions Insurance in an amount of not less than the following:

\$1,000,000.00 or
\$2,000,000.00

14.2.5. Other Coverage as Dictated by the District. Program and Construction Manager shall procure and maintain, during the term of this Agreement, the following other Insurance coverage:

	<u>Each Occurrence</u>	<u>Aggregate</u>
<input type="checkbox"/> Other: ____	\$ _____	\$ _____
<input type="checkbox"/> Other: ____	\$ _____	\$ _____

- 14.2.6. The District reserves the right to modify the limits and coverages described herein.
- 14.3. The District reserves the right to modify the limits and coverages described herein, with appropriate credits or changes to be negotiated for such changes.
- 14.4. **Deductibles and Self-Insured Retention:** Program and Construction Manager shall inform the District in writing if any deductibles or self-insured retention exceeds twenty-five thousand dollars (\$25,000). At the option of the District, either:
- 14.4.1. The District can accept a higher deductible;
- 14.4.2. Program and Construction Manager's insurer shall reduce or eliminate such deductibles or self-insured retention as respects the District, its officers, officials, employees and volunteers; or
- 14.4.3. Program and Construction Manager shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.
- 14.5. **Other Insurance Provisions:** The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:
- 14.5.1. Program and Construction Manager's and any and all subconsultant's Commercial General Liability insurance shall name the District, its employees, and school board members, and the Architect as Additional Insureds. The coverage shall contain no special limitations on the scope of protection afforded to the Additional Insureds.
- 14.5.2. Program and Construction Manager's policy(ies) shall be primary; any insurance carried by the District, shall only be secondary and supplemental. Any insurance or self-insurance maintained by the Additional Insureds shall be in excess of Program and Construction Manager's insurance and shall not contribute with it.
- 14.5.3. Insurance written on a "claims made" basis is to be renewed by the Program and Construction Manager and all subconsultants for a period of five (5) years following termination of this Agreement. Such insurance must have the same coverage and limits as the policy that was in effect during the term of this agreement, and will cover the Program and Construction Manager and all subconsultants for all claims made.
- 14.5.4. The policy(ies) shall not be amended or modified and the coverage amounts shall not be reduced without thirty (30) days written notice to the District prior to cancellation.
- 14.5.5. Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the Additional Insureds.

- 14.5.6. Program and Construction Manager's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- 14.6. **Acceptability of Insurers:** Insurance is to be placed with insurers admitted in California with a current A.M. Best's rating of no less than A:VII. Program and Construction Manager shall inform the District in writing if any of its insurer(s) have an A.M. Best's rating less than A:VII. At the option of the District, the District may either:
- 14.6.1. Accept the lower rating; or
- 14.6.2. Require Program and Construction Manager to procure insurance from another insurer.
- 14.7. **Verification of Coverage:** Program and Construction Manager shall furnish the District with:
- 14.7.1. Certificates of insurance to the District as evidence of the insurance coverage required herein, not less than fifteen (15) days prior to commencement of the Services, and at any other time upon the request of the District; and
- 14.7.2. Original endorsements affecting general liability and automobile liability coverage at any time upon the request of the District. The endorsements are to be signed by a person authorized by that insurer to bind coverages on its behalf.
- 14.8. **Failure to Procure Insurance:** Failure on the part of Program and Construction Manager, or any of its subconsultants, to procure or maintain required insurance shall constitute a material breach of contract under which the District may immediately terminate this Agreement.

Article 15. Nondiscrimination

Program and Construction Manager agrees that no discrimination shall be made in the employment of persons under this Agreement because of the race, national origin, ancestry, religion, age, physical disability, sex, or sexual orientation of such person. Program and Construction Manager shall comply with any and all regulations and laws governing nondiscrimination in employment.

Article 16. Covenant Against Contingent Fees

Program and Construction Manager warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Program and Construction Manager, to solicit or secure this Agreement, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the Program and Construction Manager, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent on or resulting from the award or making of this Agreement. For breach or violation of this warranty, the District shall have the right to annul this Agreement without liability, or in its

discretion, to deduct from the contract price or consideration or otherwise recover the full amount of such fee, commission, percentage fee, gift, or contingency.

Article 17. Entire Agreement/Modification

This Agreement, including the Exhibits hereto, supersedes all previous contracts and constitutes the entire understanding of the Parties hereto. Program and Construction Manager shall be entitled to no other benefits than those specified herein. No changes, amendments or alterations shall be effective unless in writing and signed by both Parties. Program and Construction Manager specifically acknowledges that in entering this Agreement, Program and Construction Manager relies solely upon the provisions contained in this Agreement and no others.

Article 18. Non-Assignment of Agreement

In as much as this Agreement is intended to secure the specialized services of the Program and Construction Manager, Program and Construction Manager may not assign, transfer, delegate or sublet any interest therein without the prior written consent of District and any such assignment, transfer, delegation or sublease without the District's prior written consent shall be considered null and void. Likewise, District may not assign, transfer, delegate or sublet any interest therein without the prior written consent of Program and Construction Manager and any such assignment, transfer, delegation or sublease without Program and Construction Manager's prior written consent shall be considered null and void.

Article 19. Law, Venue

- 19.1. This Agreement has been executed and delivered in the State of California and the validity, enforceability and interpretation of any of the clauses of this Agreement shall be determined and governed by the laws of the State of California.
- 19.2. The county in which the District administration office is located shall be the venue for any action or proceeding that may be brought or arise out of, in connection with or by reason of this Agreement.

Article 20. Alternative Dispute Resolution

Notwithstanding any disputes, claims or other disagreements between Program and Construction Manager and the District, Program and Construction Manager shall continue to provide and perform services hereunder pending a subsequent resolution of such disputes. All claims, disputes or controversies arising out of, or in relation to the interpretation, application or enforcement of this Agreement may be decided through mediation as the first method of resolution. If this method proves unsuccessful, then all claims, disputes or controversies as stated above may be decided through arbitration, if agreed to by all Parties.

Article 21. Severability

If any term, covenant, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

Article 22. Employment Status

- 22.1. Program and Construction Manager shall, during the entire term of Agreement, be construed to be an independent contractor and nothing in this Agreement is intended nor shall be construed to create an employer-employee relationship, a joint venture relationship, or to allow District to exercise discretion or control over the professional manner in which the Program and Construction Manager performs the Services which are the subject matter of this Agreement; provided always, however, that the Services to be provided by Program and Construction Manager shall be provided in a manner consistent with all applicable standards and regulations governing such Services.
- 22.2. Program and Construction Manager understands and agrees that the Program and Construction Manager's personnel are not and will not be eligible for membership in or any benefits from any District group plan for hospital, surgical or medical insurance or for membership in any District retirement program or for paid vacation, paid sick leave or other leave, with or without pay or for other benefits which accrue to a District employee.
- 22.3. Should District, in its discretion, or a relevant taxing authority such as the Internal Revenue Service or the State Employment Development Department, or both, determine that Program and Construction Manager is an employee for purposes of collection of any employment taxes, the amounts payable under this Agreement shall be reduced by amounts equal to both the employee and employer portions of the tax due (and offsetting any credits for amounts already paid by Program and Construction Manager which can be applied against this liability). District shall then forward those amounts to the relevant taxing authority.
- 22.4. Should a relevant taxing authority determine a liability for past services performed by Program and Construction Manager for District, upon notification of such fact by District, Program and Construction Manager shall promptly remit such amount due or arrange with District to have the amount due withheld from future payments to Program and Construction Manager under this Agreement (again, offsetting any amounts already paid by Program and Construction Manager which can be applied as a credit against such liability).
- 22.5. A determination of employment status pursuant to the preceding two paragraphs shall be solely for the purposes of the particular tax in question, and for all other purposes of this Agreement, Program and Construction Manager shall not be considered an employee of District. Notwithstanding the foregoing, should any court, arbitrator, or administrative authority determine that Program and Construction Manager is an employee for any other

purpose, then Program and Construction Manager agrees to a reduction in District's liability resulting from this Agreement pursuant to principles similar to those stated in the foregoing paragraphs so that the total expenses of District under this Agreement shall not be greater than they would have been had the court, arbitrator, or administrative authority determined that Program and Construction Manager was not an employee.

22.6. Nothing in this Agreement shall operate to confer rights or benefits on persons or entities not a party to this Agreement.

Article 23. Warranty of Program and Construction Manager

23.1. Program and Construction Manager warrants that the Program and Construction Manager is properly licensed and/or certified under the laws and regulations of the State of California to provide all the services that it has herein agreed to perform.

23.2. Program and Construction Manager certifies that it is aware of the provisions of the Labor Code of the State of California, that require every employer to be insured against liability for workers compensation or to undertake self-insurance in accordance with the provisions of that code, and it certifies that it will comply with those provisions before commencing the performance of the work of this Agreement.

23.3. Program and Construction Manager certifies that it is aware of the provisions of California Labor Code that require the payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects ("Prevailing Wage Laws"). Since the Program and Construction Manager is performing work as part of an applicable "public works" or "maintenance" project, and since the total compensation is \$1,000 or more, the Program and Construction Manager agrees to fully comply with and to require its sub-consultant(s) to fully comply with all applicable prevailing wage requirements of the California Labor Code.

Article 24. Cost Disclosure - Documents And Written Reports

Program and Construction Manager shall be responsible for compliance with California Government Code section 7550, if the total cost of the Agreement is over five thousand dollars (\$5,000).

Article 25. Communications

Communications between the parties to this Agreement may be sent to the following addresses:

District:

Rio School District
2500 E. Vineyard Ave.
Oxnard, CA 93036

Program and Construction Manager:

Any notice personally given shall be effective upon receipt. Any notice sent by facsimile shall be effective the day after transmission. Any notice sent by overnight delivery service shall be effective the day after delivery. Any notice given by mail shall be effective five (5) days after deposit in the United States mail.

Article 26. Other Provisions

- 26.1. The Program and Construction Manager shall be responsible for the cost of construction change orders caused directly by the Program and Construction Manager's willful misconduct or negligent acts, errors or omissions. Without limiting Program and Construction Manager's liability for indirect or consequential cost impacts, the direct costs for which the Program and Construction Manager shall be liable shall equal its proportionate share of the difference between the cost of the change order and the reasonable cost of the work had such work been a part of the originally prepared construction documents.
- 26.2. Neither the District's review of, approval of, nor payment for any of the Services required under this Agreement shall be construed to operate as a waiver of any rights under this Agreement, and Program and Construction Manager shall remain liable to the District in accordance with this Agreement for all damages to the District caused by Program and Construction Manager's failure to perform any of the Services furnished under this Agreement to the standard of care of the Program and Construction Manager for its Services, which shall be, at a minimum, the standard of care of Program and Construction Managers performing similar work for California community District districts at or around the same time and in or around the same geographic area of the District.
- 26.3. All of the work product of Program and Construction Manager, prepared or generated, in connection with this Agreement is the property of the District. If the District exercises the right to terminate this Agreement pursuant to the terms hereof, upon request of the District, Program and Construction Manager shall assemble and transmit to the District all of the work product of the Program and Construction Manager generated, prepared, reviewed or compiled in connection with this Agreement and the Basic Services and authorized Extra Services hereunder. Upon request of the District, the Program and Construction Manager shall make available to the District all work product completed or in progress at the time of such a request.
- 26.4. Each party warrants that it has had the opportunity to consult counsel and understands the terms of this Agreement and the consequences of executing it. In addition, each party acknowledges that the drafting of this Agreement was the product of negotiation, that no party is the author of this Agreement, and that this Agreement shall not be construed against any party as the drafter of the Agreement.
- 26.5. The individual executing this Agreement on behalf of the Program and Construction Manager warrants and represents that she/he is authorized to execute this Agreement and bind the Program and Construction Manager to all terms hereof.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date(s) indicated below.

Rio School District

Date: _____, 20__

Date: _____, 20__

By: _____

By: _____

Title: _____

Title: _____

EXHIBIT "A"

**RESPONSIBILITIES AND SERVICES OF
PROGRAM MANAGER AND CONSTRUCTION MANAGER**

1.	BASIC SERVICES.....	A-1
2.	GENERAL PROGRAM SERVICES	A-5
3.	PRECONSTRUCTION PHASE	A-5
4.	PRE-BID PHASE	A-6
5.	BIDDING PHASE	A-7
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7.	PROJECT COMPLETION	A-10
8.	FINAL DOCUMENTS.....	A-10
9.	WARRANTY.....	A-10

EXHIBIT "A"

**RESPONSIBILITIES AND SERVICES OF
PROGRAM AND CONSTRUCTION MANAGER**

I. RESPONSIBILITIES AND SERVICES OF PROGRAM MANAGER

Program and Construction Manager shall provide professional services necessary for completing the following:

1. BASIC SERVICES

- 1.1. Provide work which shall comply with professional standards and applicable requirements of federal, state, and local law.
- 1.2. Monitor and advise the District as to all material developments in the Project(s). Maintain reporting systems for scope, sequencing, scheduling, budgets and communication for all Measure G Bond Projects.
- 1.3. Be the focal point of all communication to and from construction contractor(s).
- 1.4. Continue the implementation of existing District methods to budget and track all expenditures on each Project. Program Manager shall generate monthly reports to the District reflecting this information, and shall maintain the District's financial reporting systems.
- 1.5. Prepare methods to track and report on schedule status for each Project and for the overall Program. Program Manager shall develop master schedules and milestone schedules for each Project, and shall report on same each month to the District.
- 1.6. The Program Manager may be required to attend each meeting of the District's Board of Trustees, and to provide updates at each meeting.
- 1.7. Program Manager shall work cooperatively with the Design Team and the District to:
 - 1.7.1. Define and schedule the Projects in the Program.
 - 1.7.2. Provide Services that will result in the development of an overall Program strategy with regard to phases, construction schedules, timing, budget, construction materials, building systems, and equipment.
- 1.8. Organize an initial planning workshop to create baseline parameters for the Project(s), to define overall building requirements, Project(s) strategy, conceptual budget and schedule. Pursuant to understandings reached at these meetings, Program Manager will develop an implementation plan that identifies the various phases of the Project(s), coordination among phases, and budget and time constraints for each phase of the Project(s). The plan will include a detailed strategy, Program Budget and Program schedule as well as identification of critical events and milestone activities.

- 1.9. Perform constructability reviews, determine construction feasibility, availability of materials and labor, time requirements for installation and construction, and factors related to cost, including costs of alternative designs of materials, preliminary budgets, and possible economies.
- 1.10. Interface with all trade contractors during construction to ensure that the District is provided with an acceptable Program and the best value for taxpayer dollars.
- 1.11. Advise the District as to the regulatory agencies that have jurisdiction over any portion or all of the Program, and as to coordination with and implementation of the requirements of the regulatory agencies, including without limitation DSA.
- 1.12. Contract for or employ, at Program Manager's expense, sub-consultant(s) to the extent deemed necessary for Program Manager's services. Nothing in the foregoing shall create any contractual relationship between the District and any sub-consultant(s) employed by the Program Manager under terms of this Agreement.
- 1.13. Cooperate with the District, Board, and other professionals employed by the District for the design, coordination or management of other work related to the Project, including District staff and consultants, project manager(s), citizens' oversight committee, other District committees, and the community to facilitate the timely completion of the Projects within Board approved budgets and to District design standards.
- 1.14. Chair, conduct and take minutes of periodic meetings between District and its design professional(s) of the Site Committee meetings, and of construction meetings during the course of the projects. Program Manager shall invite the District and/or its representative to participate in these meetings. Program Manager shall keep meeting minutes to document comments generated in these meetings, but shall not be responsible for analyzing design issues raised in said meetings.
- 1.15. Develop for District approval a Program time schedule at the start of Program development that does the following:
 - 1.15.1. Provides sufficient time for bidding, and, if necessary, rebidding some, or all, of the individual bid packages, and that
 - 1.15.2. Coordinates and integrates the design professional(s)'s design efforts with bidding schedules.
 - 1.15.3. Includes realistic activity sequences and durations, allocation of labor and materials and delivery of products requiring long lead-time procurement.
 - 1.15.4. Takes into account the District's occupancy requirements (showing portions of the Program having occupancy priority and with ongoing operational occupancy requirements).
- 1.16. Be responsible for the professional quality and technical accuracy of all cost estimates, constructability reviews, studies, reports, projections, opinions of

the probable cost of construction, and other services furnished by Program Manager under this Agreement as well as coordination with all Master Plans, studies, reports and other information provided by District to Program Manager. Program Manager shall, without additional compensation, correct or revise any errors or omissions in materials it generates.

- 1.17. Maintain a log of all meetings, site visits or discussions held in conjunction with the work of the Projects, with documentation of major discussion points, observations, decisions, questions or comments. These shall be furnished to the District and/or its representative for inclusion in the overall Project documentation.
- 1.18. At the request of the District, develop a Management Information System to assist in establishing communications between the District, Program Manager, Construction Manager(s), design professional(s), contractor(s) and other parties on the Projects. In developing the MIS, the Program Manager shall interview the District's key personnel and others in order to determine the type of information to be managed and reported, the reporting format, the desired frequency for distribution of the various reports, the degree of accessibility by potential users, and the security protocol for the system.
- 1.19. Coordinate transmittal of documents to regulatory agencies for review and shall advise the District of potential problems in completion of such reviews.
- 1.20. When acting as Construction Manager for specific projects:
 - 1.20.1. Assist the District in pre-qualifying bidders if prequalification is permitted by the District. This service shall include the following:
 - 1.20.1.1. Preparation and distribution of prequalification questionnaires;
 - 1.20.1.2. Receiving and analyzing completed questionnaires;
 - 1.20.1.3. Interviewing possible bidders, bonding agents and financial institutions; and
 - 1.20.1.4. Preparing recommendations for the District.
- 1.21. Conduct a telephonic and correspondence campaign to attempt to increase interest among qualified bidders.
- 1.22. Assist the District in preparing and placing notices and advertisements to solicit bids for the Project.
- 1.23. Provide documentation, pictures, and other information and assistance to the District for the District's use on a website for public access to show Project status.
- 1.24. Cooperate and coordinate with the persons responsible for operation of the District's labor compliance program, if applicable.

- 1.25. Comply with any storm water management program that is approved by the District and applicable to the Project, at no additional cost to the District.
- 1.26. Ensure that all Project contractor(s), Project sub-contractor(s) and Program Manager's sub-consultant(s) comply with any District-approved storm water management program that is applicable to the Project, at no additional cost to the District.
- 1.27. Provide direction and planning to ensure Project adherence to applicable environmental requirements such as those emanating from the Environmental Protection Agency (EPA), Cal/EPA, the California Environmental Quality Act ("CEQA"), Air Quality Management District and State of California and Regional Water Quality Control Board laws, regulations and rules. The Program Manager shall comply with, and ensure that all Construction Managers, all contractors and their subcontractors and Design Professionals and their sub-consultants comply with, any storm water pollution prevention plans, other storm water management program and other environmental impact mitigation requirements that are approved by the District and applicable to the Project, at no additional cost to the District.
- 1.28. Program Manager shall maintain accurate cost accounting records maintained with generally accepted accounting principles (GAAP) on authorized work performed under unit costs, actual costs for labor and material, or other basis for maintaining required accounting records. Program Manager shall provide accounting records to the District on a monthly basis, or as reasonably requested by District. Program Manager shall afford the District access to these records and preserve these records for a period of three (3) years after final payment, at no cost to the District.
- 1.29. Program and Construction Manager is not responsible for:
 - 1.29.1. Ground contamination or hazardous material analysis.
 - 1.29.2. Any asbestos testing, design or abatement; however, it shall coordinate and integrate its work with any such information provided by District.
 - 1.29.3. Compliance with the California Environmental Quality Act ("CEQA"), except that Program Manager agrees to coordinate its work with that of any CEQA consultants retained by the District, and to provide current information for use in CEQA compliance documents.
 - 1.29.4. Historical significance report.
 - 1.29.5. Soils investigation.
 - 1.29.6. Geotechnical hazard report.
 - 1.29.7. Topographic survey, including utility locating services.
 - 1.29.8. Other items specifically designated as the District's responsibilities under this Agreement.
 - 1.29.9. As-built documentation from previous construction projects.

2. GENERAL PROGRAM SERVICES

- 2.1. **General:** Monitor and advise the District as to all material developments in the Project. Develop and implement with District approval reporting methods for schedules, cost and budget status, and projections for each project in the District's Program.
- 2.2. **Scheduling:** Prepare methods to track and report on schedule status for each project and for the overall Program. Develop master schedules and milestone schedules for each project, and shall report on same each month to the District.
- 2.3. **Cost Controls:** Prepare and implement methods to budget and track all expenditures on each Project. Generate monthly reports to the District reflecting this information.
- 2.4. **Communications to Board:** The Program and Construction Manager may be required to attend each monthly meeting of the District's Board of Trustees, and to provide updates at each meeting.

3. PRECONSTRUCTION PHASE

- 3.1. Provide overall coordination of the Projects; serve as the focal point of communication, transmitting information to the District and design team on general aspects of the Projects, including planning, scheduling, cost management, progress reporting, design review, dispute resolution, and documentation. Communications from the contractor(s) to District and project design team shall be through the Program and Construction Manager. The Program and Construction Manager shall receive simultaneous copies of all written communications from the District or the project design team to the contractor(s).
- 3.2. Develop and implement District-approved implementation procedures, forms, and reporting requirements for the Projects that involve all members of the Project teams, including District, design professional(s), and construction contractor(s).
- 3.3. Assist the District in the solicitation and retention of design and engineering consultants, and coordinate design consultants activities and delivery schedules, as needed. Provide value engineering and life cycle cost analysis.
- 3.4. Provide design-phase services in conjunction with all architecture firms awarded work by the District. Assist with verification of site conditions. Expedite design reviews, including modifications. Work with the Design Team and District to develop the final sizes, choice of materials, services and utilities and other detailed design and performance criteria of the Program and Facilities Master Plan. Keep accurate documentation of all discussions with users regarding scope and resolution.
- 3.5. Provide value engineering at the Schematic Design and/or 100% Design Development Phase. This evaluation will consist of a review of the proposed materials, equipment, systems and other items depicted in the Design Documents and shall be coordinated with the District's design guidelines and

design professional(s). Prepare a value engineering report will document the results of the evaluation and make recommendations to the District with respect to alternatives, deletions, or amendments of such proposed items that pertain to the anticipated construction costs, useful life, maintenance and operational costs and efficiencies. Provide to the District value engineering recommendations and cost/benefit analysis of those recommendations.

- 3.6. Perform or subcontract for constructability reviews of each Project at the Design Development Phase and at 90% Construction Documents. Review the design documents for clarity, consistency, constructability and coordination. The results of the review shall be provided in writing and as notations on the documents to the District. Make recommendations to the District with respect to constructability, construction cost sequence of construction, construction duration and separation of the contracts for various projects into categories of the work and separate bid trade packages. However, the Program and Construction Manager is not responsible for providing, nor does the Program and Construction Manager control, the Project design or the contents of the design documents. The Program and Construction Manager's actions in reviewing the Project design and design documents and in making recommendations as provided herein are advisory only to the District. The design professional(s) are not third party beneficiaries of the Program and Construction Manager's work described in this paragraph and the design professional(s) remains solely responsible for the contents of design drawings and design documents.
- 3.7. Develop master bid/award schedule(s) including construction milestones for the Project through the completion of construction, as directed by District, in coordination with design professional(s) and advise and consult with District.
- 3.8. Establish schedules for the soils consultant, for any hazardous materials testing and other consultants, and review costs, estimates, and invoices of each.
- 3.9. Develop and implement a management control system to support such functions as planning, organizing, scheduling, budgeting, reporting progress and identifying and documenting problems and solutions for the Project. The system will allow for monthly progress reports to the District regarding the schedule for the Project.
- 3.10. Organize an initial planning workshop to create baseline parameters for the Program, to define overall building requirements, Program strategy, conceptual budget and schedule. Pursuant to understandings reached at these meetings, Program and Construction Manager will develop an implementation plan that identifies the various phases of the Project, coordination among phases, and budget and time constraints for each phase of the Project. The plan will include a detailed strategy, master budget and master schedule as well as identification of critical events and milestone activities.
- 3.11. Provide updated cost estimates for the Project at the Schematic Design, Design Development, and Construction Documents Phase as directed by District; coordinate with design professional(s) and reconcile cost estimates with design professional(s)' estimates.

- 3.12. Advise District regarding "green building" technology and lifecycle costing, when applicable.
- 3.13. Prepare and maintain a Construction Management schedule for the Project. Prepare a procurement plan, where required.
- 3.14. Monitor and report to the District on status of design and state approval versus the schedule for each project. Attend meetings to coordinate design efforts for the Bond Program. Assist in identifying and obtaining all necessary approvals.

4. PRE-BIDDING PHASE

- 4.1. Bidding Procedures. Make recommendations for development and implementation of procedures to comply with applicable bidding requirements for each Project and for expediting completion of the bidding process for each Project. The scope of the foregoing includes without limitation, recommendations with respect to (a) pre-qualification of potential contractors; (b) segregation or combination of two or more of the Projects for design, bidding and/or construction purposes for maximum cost effectiveness for the District; and (c) alternative construction delivery approaches for each of the Projects, including consideration of a single general contractor and multiple trade contractor approach to construction for each Project.

5. BIDDING PHASE

- 5.1. Assist with development of documents necessary or appropriate for bidding the Construction Contract for a Project
- 5.2. Assist with pre-qualification process for the selection of prime and/or sub-contractors, as the detailed definition of Project scope, budget, schedule, and programming support. Develop a short-list of pre-qualified prime and/or sub-contractors, as required.
- 5.3. Coordinate all bid phase activities with District departments.
 - 5.3.1. Develop bidders' interest in a Project.
 - 5.3.2. Prepare public solicitation notices for District approval.
 - 5.3.3. Conduct pre-bid conferences/job walks and Project site walk examinations with bidders, including preparation of minutes of pre-bid conferences/job walks.
 - 5.3.4. Review, coordinate, and estimate cost of bid phase addenda.
 - 5.3.5. Assist District in responding to bidders' inquiries.
 - 5.3.6. Assist District with bid evaluations for responsiveness to bid requirements and evaluation of bidder responsibility and conduct reference checks. Report to District on results. Conduct post-bid conferences as required. Assist and advise regarding bid protests.

- 5.3.7. Coordinate contracting with low bidders, including the evaluation bonds and insurance.
- 5.4. Assist with the preparation of agenda items for Board approval. Coordinate submittals required by governing agencies.

6. CONSTRUCTION PHASE

- 6.1. Cost Control. Develop and monitor an effective system of construction cost control for the Program. Identify variances between actual and budgeted or estimated costs and advise District and design professional(s) whenever a Program cost exceeds budgets or estimates. Manage the construction bids and contracts in accordance with the Program Budget.
- 6.2. Assist and support architects' construction administration processes.
- 6.3. Establish and implement quality control program, including as-built accuracy.
- 6.4. Continually monitor whether construction contract requirements are being fulfilled and recommend courses of action to the District when contractor(s) fails to fulfill contractual requirements.
- 6.5. Establish and implement procedures, in collaboration with the District and design professional(s), for expediting the processing and approval of shop drawings, product data, samples, and other submittals for each contract. Receive and transmit all submittals from the Construction contractor(s) to the design professional(s) for review and approval. Maintain submittal and shop drawing logs.
- 6.6. Maintain logs of requests for information ("RFI") from construction contractor(s), based on information obtained from the design professional(s). Evaluate and track RFIs and responses, shop drawings, samples, and other submittals. Advise District as to status and criticality of RFIs.
- 6.7. The Program and Construction Manager may authorize minor 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 or design and which are consistent with the overall intent of the contract documents. The Program and Construction Manager shall provide to the design professional(s) and the District copies of these authorizations.
- 6.8. Develop, implement, and coordinate with assistance from the District, the design professional(s), and the Project Inspector(s) ("Inspector"), procedures for the submittal, review, verification and processing of applications by contractor(s) for progress and final payments for all construction contracts.
 - 6.8.1. Evaluate and process payment applications and verify progress.
- 6.9. Assist District in selecting and retaining special consultants and testing laboratories and coordinate their services.
 - 6.9.1. To guard District against defects in the work of the construction contractor(s), Program Manager shall establish and implement a

quality control program to monitor the quality and workmanship of construction for conformity with:

- 6.9.1.1. Accepted industry standards;
 - 6.9.1.2. Applicable laws, rules, or ordinances; and
 - 6.9.1.3. The design documents and Contract Documents;
- 6.9.2. Where the work of a construction contractor does not conform as set forth above, Program and Construction Manager shall, with the input of design professional(s):
- 6.9.2.1. Notify the District of any non-conforming work observed by the Program and Construction Manager;
 - 6.9.2.2. Reject the non-conforming work; and
 - 6.9.2.3. Take any and all action(s) necessary to compel the construction contractor(s) to correct the work.
- 6.10. Develop detailed construction schedules or review contractor's submitted schedules, as needed. Administer and coordinate the work of contractors on a daily basis. Enforce performance, scheduling, and notice requirements. Review contractors' schedule submittals and make recommendations to the District. Conduct pre-construction conferences, as needed. Coordinate and evaluate contractor's recovery schedules, if any.
- 6.11. Monitor schedule and cost information for each prime contractor on each Project. Document the progress and costs of each Project. Report and advise proactively on potential schedule and budget variances and impacts. Recommend potential solutions to schedule and cost problems. Work cooperatively with the District, architects, and contractors to ensure that Projects are delivered on time and within budget. Review construction progress and prepare reports.
- 6.12. Maintain a change order log for the Project and implement procedures to expedite processing of change orders. Evaluate and process change order requests. Make recommendations to the District. Determine cost and schedule effects of change orders.
- 6.13. Implement procedures for issues identification and resolution of actual or potential claims of construction contractor(s) and take actions to mitigate all claims against the District and attempt to eliminate and/or settle all claims.
- 6.14. Verify permits, approvals, bonds, insurances, and schedules of values. Coordinate with Division of State Architect (DSA) inspector, and ensure compliance with all DSA reporting and closeout requirements. Submit necessary reports to state and local authorities.
- 6.15. Provide continuous on-site construction management personnel, as needed. Attend weekly job-site meetings and prepare and circulate minutes. Establish team communication procedures.

- 6.16. Work with District team to develop lists of incomplete or unsatisfactory work ("punchlists").

7. PROJECT COMPLETION

- 7.1. Coordinate close-out procedures, including personnel training. Advise District staff on systems operations, training and close-out of Projects.
- 7.2. Ensure completion of punchlist work. Coordinate and expedite contractor close-out requirements, including guarantees/warranties, certificates, keys, manuals, as-built drawings, record drawings, specifications, daily logs, and verified reports. Ensure that all other project participants submit necessary close-out documentation.
- 7.3. Coordinate operational safety reviews with District post occupancy and manage corrective work as necessary.
- 7.4. Ensure that all building commissioning requirements have been fulfilled in a timely manner through District commissioning agents.
- 7.5. Obtain occupancy permits (where required), coordinate final testing, documentation, and regulatory inspections. Prepare occupancy plan report.
- 7.6. Prepare final accounting reports.
- 7.7. Conduct, with the Architect(s) and District, final inspections of the Project or designated portions thereof.
- 7.8. Consult with the Architect(s), Inspector(s) and the District and determine when the Project and the contractor's work are finally completed. Assist with the issuance of a Certificate of Final Completion, and shall provide to the District a written recommendation regarding payment to the contractors.
- 7.9. Coordinate procurement and installation of Furniture, Fixtures, and Equipment (FF&E).

8. FINAL DOCUMENTS

Review and monitor all as built drawings, maintenance and operations manuals, and other closeout documents to be sure all required documents meeting contract requirements are provided, and shall secure and transmit to the District those documents and all required guarantees, keys, manuals, record drawings, and daily logs. Forward all documents and plans to the District upon completion of the project and ensure all such plans and documents are well organized for any appropriate audit or review of the project.

9. WARRANTY

Implement a Warranty Inspection and Warranty Work procedure that all contractors are to follow. The procedure shall include a twelve (12) month call back period and a final warranty inspection eleven (11) months after Project completion to inspect the Project and identify any outstanding warranty work.

EXHIBIT "B"

CRITERIA AND BILLING FOR EXTRA SERVICES

The following Extra Services to this Agreement shall be performed by Program Manager if needed and requested by District as indicated in the Agreement:

1. Providing services required because of significant documented changes in the Project initiated by the District, including but not limited to size, quality, complexity, the District's schedule, or method of bidding or negotiating and contracting for construction.
2. Providing consultation concerning replacement of work damaged by fire or other cause during construction and furnishing services required in connection with replacement of such work.
3. Providing services made necessary by the default of contractor(s), or by major defects or deficiencies in the work of the contractor, or by failure of performance of the District's consultants, or in the absence of a final Certificate of Payment, more than sixty (60) days after the date of completion of work on the project involved.
4. The selection, layout, procurement or specification at the District's request of movable furniture, furnishings, equipment or other articles that are not included in the Contract Documents.
5. Providing surveys relative to future facilities, systems or equipment which are not intended to be constructed during the Construction Phase.
6. Preparation of applications and supporting documents for governmental grants and permits other than as required in this Agreement.
7. Seeking variances or changes to agency guidelines on behalf of the District when so directed by the District
8. Providing coordination of Services or providing services related to Services performed by the District's own forces.
9. Preparing to serve or serving as a witness in connection with any public hearing, dispute resolution proceeding or legal proceeding, other than that necessitated by the negligent acts, errors or omissions of Program Manager or where the Program Manager is party thereto, except for a contractor's hearing necessitated by its request to substitute a subcontractor.
10. Performing technical inspection and testing.
11. Providing additional construction administration services necessitated by changes in the design professional(s)' firm or key personnel.
12. Providing any other services not otherwise included in this Agreement or not customarily furnished in accordance with generally accepted scope of program or project management practice.

The rates identified in the Fee Schedule attached to **Exhibit "D"** include overhead, administrative cost and profit and shall be utilized in arriving at the fee for Extra Services.

EXHIBIT "C"

SCHEDULE OF WORK

- See attached Schedule.

EXHIBIT "D"

FEE SCHEDULE

Compensation

1. The Program Manager's fee set forth in this Agreement shall be full compensation for all of Program Manager's Services incurred in its performance, including, without limitation, all costs for personnel, travel within two hundred (200) miles of the Project location (travel reimbursements must be approved by the District prior to travel), offices, per diem expenses, printing, providing, or shipping of deliverables in the quantities set forth in **Exhibit "A."** The parties acknowledge and agree, in general, that the program has an existing inventory (i.e. offices, computers and peripherals, printers, fax machines, photocopy equipment, etc.) and significant expenditures in these areas are not anticipated.
2. The amount of compensation shall be the amount set forth in the Agreement, including all billed expenses, without advance written approval of the District.

Method of Payment

1. Program Manager shall submit monthly invoices on a form and in the format approved by the District.
2. Program Manager shall submit these invoices in duplicate to the District via the District's authorized representative.
3. Program Manager shall submit to District on a monthly basis documentation showing proof that payments were made to his/her sub-consultants.
4. Upon receipt and approval of Program Manager's invoices, the District agrees to make payments on all undisputed amounts within sixty (60) days of receipt of the invoice.
5. The District may withhold or deduct from amounts otherwise due Program Manager hereunder if Program Manager fails to timely and completely perform material obligations to be performed on its part under this Agreement, with the amounts withheld or deducted being released after Program Manager has fully cured such failure of performance, less costs, damages or losses sustained by the District resulting therefrom.

Hourly Rates

1. The following rates, which include overhead, administrative cost and profit, shall be utilized in arriving at the fee for Extra Services and shall not be changed for the term of the Agreement. Program Manager shall bill in quarter-hour increments for all Extra Services.

<u>Job Title</u>	<u>Hourly Rate</u>
Principal In Charge:	\$____.00
Program Director:	\$____.00
Program Manager (s):	\$____.00
Assistant Program Manager	\$____.00
Other	
Other	
Other	

2. The mark-up on any approved item of Extra Services performed by sub-consultant(s) or subcontractor(s) shall not exceed ten percent (10%).

Monthly Rates

3. The following monthly rates for those individuals who are anticipated to be fully dedicated to the specific District project, which include overhead, administrative cost and profit, shall be utilized in calculating the Program Manager's fee.

<u>Job Title</u>	<u>Monthly Rate</u>
Principal In Charge:	\$____.00
Program Director:	\$____.00
Program Manager (s):	\$____.00
Assistant Program Manager	\$____.00
Other	

Exhibit E

CRIMINAL BACKGROUND INVESTIGATION/FINGERPRINTING CERTIFICATION

The undersigned does hereby certify to the governing board of the District as follows:

That I am a representative of the Program Manager currently under contract with the District; that I am familiar with the facts herein certified; and that I am authorized and qualified to execute this certificate on behalf of the Program Manager.

Program Manager certifies that it has taken at least one of the following actions with respect to the Program that is the subject of the Contract (check all that applies):

_____ Program Manager has complied with the fingerprinting requirements of Education Code section 45125.1 with respect to all Program Manager's employees and all of its subcontractors' employees who may have contact with District pupils in the course of providing services pursuant to the Contract, and the California Department of Justice has determined that none of those employees has been convicted of a felony, as that term is defined in Education Code section 45122.1. A complete and accurate list of Program Manager's employees and of all of its subcontractors' employees who may come in contact with District pupils during the course and scope of the Contract is attached hereto; and/or

_____ Pursuant to Education Code section 45125.2, Program Manager has installed or will install, prior to commencement of Work, a physical barrier at the Work Site, that will limit contact between Program Manager's employees and District pupils at all times; and/or

_____ Pursuant to Education Code section 45125.2, Program Manager certifies that all employees will be under the continual supervision of, and monitored by, an employee of the Program Manager who the California Department of Justice has ascertained has not been convicted of a violent or serious felony. The name and title of the employee who will be supervising Program Manager's employees and its subcontractors' employees is:

Name: _____

Title: _____

_____ The Work on the Contract is at an unoccupied school site and no employee and/or subcontractor or supplier of any tier of Contract shall come in contact with the District pupils.

Program Manager's responsibility for background clearance extends to all of its employees, subcontractors, and employees of subcontractors coming into contact with District pupils regardless of whether they are designated as employees or acting as independent contractors of the Program Manager.

Date: _____

Name of Program Manager: _____

Signature: _____

Print Name/Title: _____

EXHIBIT "F"

IRAN CONTRACTING ACT CERTIFICATION
(Public Contract Code sections 2200-2208)

Prior to bidding on or submitting a proposal for a contract for goods or services of \$1,000,000 or more to the District, the Respondent must either: a) certify it is **not** on the current list of persons engaged in investment activities in Iran created by the California Department of General Services ("DGS") pursuant to Public Contract Code section 2203(b) and is not a financial institution extending twenty million dollars (\$20,000,000) or more in credit to another person, for 45 days or more, if that other person will use the credit to provide goods or services in the energy sector in Iran and is identified on the current list of persons engaged in investment activities in Iran created by DGS; or b) demonstrate it has been exempted from the certification requirement for that solicitation or contract pursuant to Public Contract Code section 2203(c) or (d).

To comply with this requirement, please insert your vendor or financial institution name and Federal ID Number (if available) and complete **one** of the options below. Please note: California law establishes penalties for providing false certifications, including civil penalties equal to the greater of \$250,000 or twice the amount of the contract for which the false certification was made; contract termination; and three-year ineligibility to bid on contracts. (Public Contract Code section 2205.)

OPTION #1 - CERTIFICATION

I, the official named below, certify I am duly authorized to execute this certification on behalf of the vendor/financial institution identified below, and the vendor/financial institution identified below is **not** on the current list of persons engaged in investment activities in Iran created by DGS and is not a financial institution extending twenty million dollars (\$20,000,000) or more in credit to another person/vendor, for 45 days or more, if that other person/vendor will use the credit to provide goods or services in the energy sector in Iran and is identified on the current list of persons engaged in investment activities in Iran created by DGS.

<i>Vendor Name/Financial Institution (Printed)</i>		<i>Federal ID Number (or n/a)</i>	
<i>By (Authorized Signature)</i>			
<i>Printed Name and Title of Person Signing</i>			
<i>Date Executed</i>		<i>Executed in</i>	

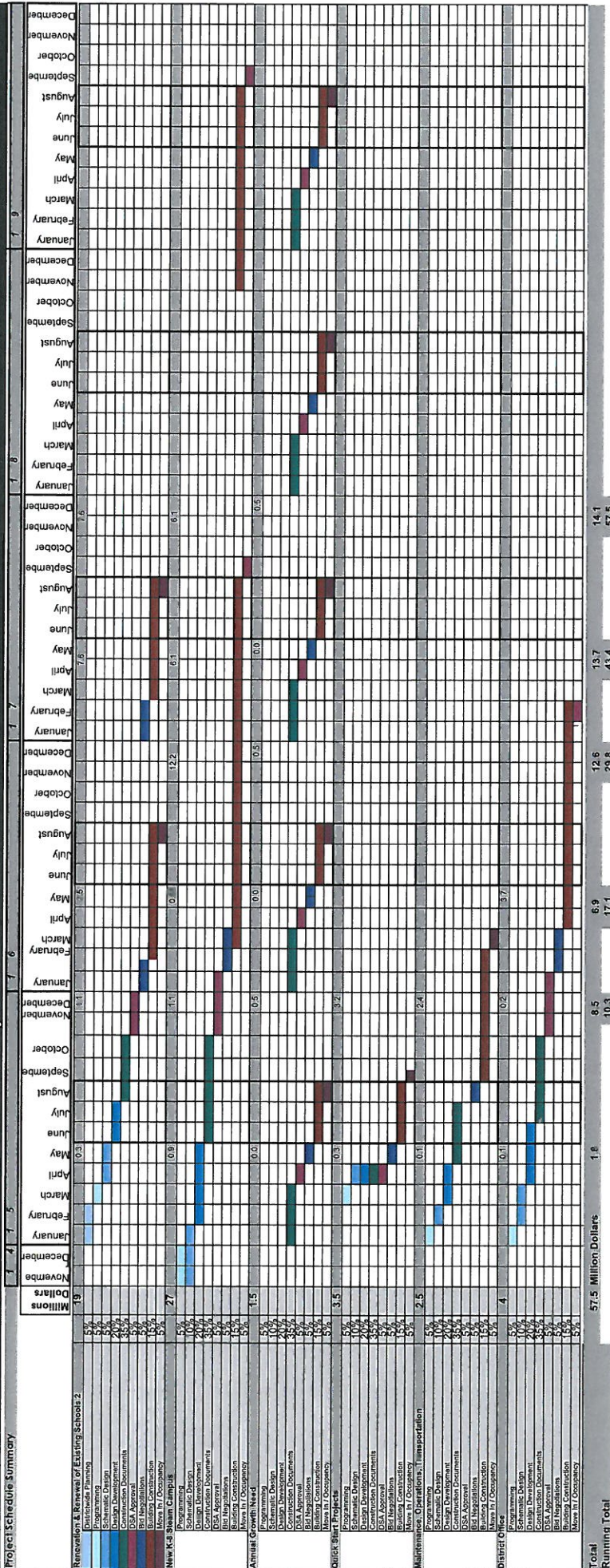
OPTION #2 – EXEMPTION

Pursuant to Public Contract Code sections 2203(c) and (d), a public entity may permit a vendor/financial institution engaged in investment activities in Iran, on a case-by-case basis, to be eligible for, or to bid on, submit a proposal for, or to enter into or to renew, a contract for goods and services.

If you have obtained an exemption from the certification requirement under the Iran Contracting Act, please fill out the information below, and attach documentation demonstrating the exemption approval.

<i>Vendor Name/Financial Institution (Printed)</i>	<i>Federal ID Number (or n/a)</i>
<i>By (Authorized Signature)</i>	
<i>Printed Name and Title of Person Signing</i>	<i>Date Executed</i>

Project Schedule Summary for Rio School District Projects



Total Running Total 57.5 Million Dollars

14.1
57.5

13.7
43.4

12.5
29.8

8.9
17.1

8.5
10.3

