



Desert Community College District
Request for Qualifications/Proposal
For
Preconstruction and Construction Management Services
Indio Expansion and Renovation
#2018-02

June 14, 2018

Qualifications Due:
July 12, 2018 – 2:00 pm

College of the Desert
Attn: Mac McGinnis
Bond Program Management
43-500 Monterey Ave.
Palm Desert, CA 92260

A. INVITATION

The Desert Community College District (“District) is requesting a Statement of Qualifications from qualified persons, firms, partnerships, corporations, associations or professional organizations (“firms”) to provide Preconstruction and Construction Management Services for the Indio Expansion and Renovation Project at College of the Desert, Indio Center. The existing Indio Center is located in the heart of Old Town Indio. The area is in the midst of a revitalization, with College of the Desert playing a key role, making this a high profile project. The Programming Phase is complete and will now move into the Design Development Phase. It is the District’s desire to have the Construction Management firm participate during the remaining design phases as part of the preconstruction services.

B. PROJECT DESCRIPTION

The project will include a new three (3) story, 60,000+ Sq. Ft. facility in the City of Indio, CA, adjacent to the existing center. The new building will house Classrooms, Science Labs, Technology and Computer Labs, Lecture Halls, Child Development Center and Playground, Meeting Spaces, Administration and Support Spaces. The renovation will be in the existing building and will include renovating those spaces where programs and services will move to the new building once completed, yet to be determined. The project will also include the necessary site improvements including parking lots and roadways. The existing building is LEED Silver certified and the expectation is that the new building will meet LEED Silver criteria as well. The Programming phase is complete, with the Design Development Phase to follow.

C. RFQ SCHEDULE

Activity	Date
Request for Qualifications Released	June 14, 2018
Request for Information Due	June 25, 2018
Addenda Issued	June 28, 2018
Statement of Qualifications Due	July 12, 2018
Review of Qualifications	July 16 -19, 2018
Notification of Short Listed Firms	July 23, 2018
Interview Short listed Firms	July 25-26, 2018
Selected Firm Notified	July 27, 2018
Board Approval	August 17, 2018

D. SCOPE OF SERVICES

As set forth in the Districts Construction Management Agreement (Attachment 1), The CM will perform oversight and management services associated with a multi-prime construction delivery method. The selected construction management firm will work cooperatively and collaboratively with the District, Program Manager, Architect, Inspector, Consultants and Contractors to ensure that the project is delivered on time and within budget. It is the intent of the District to approve two separate contracts; the first one will be for Preconstruction Management Services followed by Construction Management Services. In general, the CM will be responsible for the following categories of work, as outline in the Construction Management Agreement:

PRE-CONSTRUCTION PHASE

1. Review of Design Documents.

- a. Review for conformance to the District's requirements for the Project, as established in the Programming Phase
- b. **Value Engineering**
 1. Complete Value Engineering Reviews at the one hundred percent (100%) completed Schematic Design Phase, the fifty percent (50%) and one hundred percent (100%) completed Design Documents Phase.
 2. Upon acceptance of the CM's Value Engineering recommendations, confirm that Value Engineering recommendations are incorporated into the Design Documents and are reconciled with the estimate to ensure Project is within budget
- c. **Constructability Review.**
 1. Review the Design Documents to ascertain whether the Project, as depicted in the Design Documents:
 - a. Accurately and completely reflect the District's Project objectives;
 - b. Conform to the District's construction standards and design guidelines applicable to the Project;
 - c. Reflect the Architect's design in accordance with the Architect's professional standards of care applicable to the Project are clear, consistent and coordinated.
 - d. Complete Constructability Reviews of the one hundred percent (100%) completed Design Development and the fifty percent 50% Construction Documents.
 - e. Upon acceptance of the CM's Constructability Review Recommendations, confirm that the Constructability Review Recommendations are incorporated into the Design Documents.
- d. **CM Estimate of Construction Costs.**
 1. Prepare Estimate(s) of Construction Costs based upon the one hundred percent (100%) Schematic Design documents, one hundred percent (100%) Design Development documents, fifty percent (50%) Construction Documents and ninety five percent (95%) Construction Documents.
 2. Make recommendations to the District, for measures to reduce the Estimate of Construction Costs to conform to the Construction Budget for the Project.
 3. Meet and confer with Architect and third part estimator to reconcile CM estimate and Architect estimate if the estimates vary by three percent (3%) or more.

2. Labor/Materials Marketplace Survey

- a. Survey existing labor and materials marketplace conditions
- b. Provide written evaluation
- c. Recommend measures to mitigate such potential adverse impacts to costs/time.

3. Development of Bid Packages

- a. Develop written Bid Package descriptions that incorporate therein all work, labor, materials, equipment and services necessary to construct the Project

4. Master Project Schedule

- a. Develop Master Project Schedule which:
 1. Is consistent with the District's time objectives for completion of Project
 2. Reflects all of the Work of each Bid Package
 3. Indicates the start/finish dates for the principal activities of each Bid Package.
 4. Is Sequenced in a logical, reasonable and orderly manner
 5. Is Phased as required

6. Will be included in the Bid Documents
7. Will consider the coordination of each Prime Trade Contractors' activities.

5. **Review and Assembly of Bid Documents**

- a. Review contract documents for each Trade Contract
- b. Assemble bid and contract documents for each Bid Package

6. **Bidding of Trade Contracts**

a. Advertisements.

1. Develop legal advertisements for bidding as required by applicable law
2. Place such advertisements in a newspaper of general circulation in Riverside County
3. Make recommendations for placement of notices and issuance of other communications

b. Trade Contractor Pre-Qualification

1. Recommend engaging in a pre-qualification process for all or some of the Bid Packages
 - a. Develop pre-qualification criteria and the pre-qualification application
 - b. Develop and place advertisement(s)
 - c. Develop and implement a program to inform potential bidders of the pre-qualification process
 - d. Encourage potential Trade Contractors to engage in the pre-qualification process
 - e. Review and evaluate responses to the pre-qualification application
 - f. Recommend selection of Trade Contractors deemed pre-qualified

c. Dissemination of Bid Documents to Trade Contractors

1. Establish a system for reproduction and dissemination of Bid Documents
2. Maintain records of the identities/addresses/telephone-fax numbers/email addresses of the Trade Contractors who have obtained Bid Documents

d. Trade Contractors Campaign

1. Advise Trade Contractors of the availability of Bid Packages
2. Endeavor to maximize the participation of qualified Trade Contractors whose principal place of business is situated in Palm Desert
3. Maintain written or electronic records of contacts made

e. Pre-Bid Conference(s)

1. Conduct pre-bid conferences, including the job walk
2. Develop a process for monitoring attendance by potential Trade Contractor bidders
3. Record and transcribe minutes of the pre-bid conferences and job walk(s).

f. Opening/Reading of Bid Proposals

1. Conduct the public opening and reading of Bid Proposals for Bid Packages
2. Develop written summaries of the results of bidding for each Bid Package.

g. Review of Bid Proposals; Recommendations for Award of Trade Contracts

1. Review the submitted Bid Proposals to determine:
 - a. Bid Proposal is a responsible bidder
 - b. Bid Proposal is responsive
 - c. Price proposed for the base scope of Work of each Bid Package and for each Alternate Bid Item
 - d. Recommend regarding acceptance or rejection of bids

h. Bid Protest

1. Assist the District in the evaluation and disposition of all Bid Protest

CONSTRUCTION PHASE

1. Administration and Coordination of Trade Contracts and Construction

- a. Provide administrative, management and related services necessary to administer the Trade Contracts
- b. Schedule, sequence and coordinate the Work of the Trade Contractors during the Construction Phase
 1. Assist the District with Notice(s) to Proceed directing commencement of work under the Trade Contracts
 2. Schedule, coordinate and conduct pre-construction and weekly construction meetings
 3. Record, maintain and distribute minutes
 4. Develop and implement procedures for the submission and processing of Submittals, RFI's, Change Requests and Change Directives
 5. Develop and implement procedures for the handling and disposition of the Trade Contractors' requests for information or clarifications
 6. Establish and implement procedures for the transmittal and receipt of communications, drawings and other information between the District, District Representative, CM, Architect, Inspector, Test/Inspection services, Program Manager and the Trade Contractors
 7. Assist the District in selection and retention of Test/Inspection Service Providers and the Inspector
 8. Schedule, sequence and coordinate activities of the Trade Contractors
 9. Allocate Site staging and storage areas among the Trade Contractors.

2. Monitoring of Construction Costs

- a. Develop Project cash flow reports, forecasts and other financial reports
- b. Maintain records reflecting the actual costs for activities completed or in progress
- c. Monitor and advise of costs pertaining to potential, pending and completed changes to any Trade Contract
- d. Advise and recommend adjustments to the Construction Budget relative to actual or anticipated Construction Costs
- e. Prepare and submit cost reports on a monthly basis

3. Payments to Trade Contractors

- a. Trade Contractors' Applications for Progress Payments
 1. Develop and implement procedures for Trade Contractors' submittal of Applications for Progress Payments
 2. Review and certify the amount due on Trade Contractors' Application for Progress Payment in a timely manner

4. Substantial Completion; Punch list

- a. Inspect the Work of the Trade Contract to verify the Trade Contractor's achievement of Substantial Completion

5. Project Progress

- a. Master Project Schedule
 1. Develop an overall comprehensive Project Schedule for construction of the Project showing the activities of each of the Trade Contractors
 2. Incorporate the Trade Contractors' separate Construction Schedules into the Master Project Schedule
 3. Monitor and update the Master Project Schedule on a monthly basis
 4. Advise and recommend remedial action for schedule delay by Trade Contractor
 5. Implement and enforce remedial measures as authorized or directed by the District

- b. Trade Contractors' Schedules
 - 1. Review the Trade Contractors' Construction Schedules and updates
 - 2. Implement and enforce remedial measures as authorized or directed by the District.
- c. Coordination of Construction Activities
 - 1. Coordinate the activities of the Trade Contractors
 - 2. Schedule, coordinate and sequence the activities of the Trade Contractors in a manner so that Project construction is completed in accordance with the District's time objectives
- d. Coordination of Deferred Approvals
 - 1. Incorporate time for the Trade Contractor's design of the Deferred Approval Item, the Architect's review of such design(s) and DSA review/approval of such design(s) into the Master Project Schedule
- e. Progress Records
 - 1. Maintain records of the progress of construction, including written progress reports and photographs reflecting the status
 - 2. Maintain daily records during Project construction
- f. Final Completion
 - 1. Inspect the Work of the Trade Contractor and confirm that the Trade Contractor has complied with requirements of Contract
 - a. Meet and confer with the Architect/Inspector and District Representative to address and resolve differences concerning final completion
 - b. Notify District in writing of its determination
 - c. Identify the portions of the Work to be completed
 - d. Recommend measures to secure Final Completion
 - e. Enforce measures necessary to achieve Final Completion of the Trade Contract
 - f. Assist with issuing Certificate of Final Completion

6. Site Observations

- a. CM On-Site
 - 1. Provide on-site staff to observe, coordinate and manage the activities of the Trade Contractors
- b. Construction Quality
 - 1. Guard against defects and deficiencies in construction and workmanship with a quality control
- c. Site Safety
 - 1. Implement Safety Plan to comply with applicable law, code, rule or regulation and as appropriate for the Site.
- d. Review / Enforcement of Trade Contractor Safety Programs
 - 1. Monitor safety programs of the Trade Contractors
 - 2. Require weekly safety meetings
 - 3. Monitor and enforce implementation of remedial measures to secure compliance with safety programs/requirements

7. Changes and Claims

- a. Coordination of Changes
 - 1. Coordinate and disseminate correspondence, drawings and other written materials
 - 2. Coordinate and oversee the Trade Contractors' performance of Changes
 - 3. Maintain records of Changes and Change Orders
- b. Processing of Changes and Change Orders

1. CM shall prepare Change Orders authorized by the District and distribute the same for execution
 2. Administer submission of changes to regulatory agencies
 3. Assist in obtaining all necessary regulatory approvals for Changes
- c. Claims Handling
1. Develop process for review, evaluation, processing and disposition of claims by Trade Contractor

POST-CONSTRUCTION PHASE

1. **Review and Transmittal of Trade Contractor Close-Out Documents**
 - a. Receive and review each Trade Contractor's close-out submittals for conformity
 - b. Deliver all closeout submittals
 - c. Assist the District in submission of Final Reports to DSA
2. **CM Project Records**
 - a. Assemble and deliver all Project records maintained during the Construction Phase
3. **Trade Contractors' Post-Construction Obligations**
 - a. Manage Trade Contractors' post-construction activities
4. **Project Reports**
 - a. Monitor filing of DSA reports and other actions required by applicable law
 - b. Assist District to secure compliance by the Architect, Inspector or a Trade Contractor with regard to such requirements
 - c. Assist District in preparation of Notices of Completion for each Trade Contract

E. MINIMUM QUALIFICATIONS

1. Five (5) or more years of experience performing public works projects preferably school districts and colleges in the State of California;
2. Managed at least three (3) previous projects utilizing the multiple-prime delivery method;
3. Managed at least three (3) previous projects of a similar dollar value and type;
4. Acceptance of the Terms and Conditions of defined in the attached Construction Management Agreement

F. PROPOSAL CONTENT - REQUIRED INFORMATION AND FORMAT

Proposals must contain sufficient detail to enable the District Selection Committee to determine the merits of the firm. Proposals shall clearly demonstrate satisfaction of the minimum qualifications above, should address all elements requested below and **not exceed 20 double-sided 8x11 pages**. (Excluding cover letter, cover pages and tabs/dividers). The response should be submitted with one (1) original, five (5) copies and an electronic copy via USB. The fee proposal should be in a separate sealed envelope, clearly marked as the fee proposal.

Any questions regarding this Request for Qualifications/Proposal shall be submitted prior to **2:00 pm June 25, 2018** and directed to:

Penny McGrew at pmcgrew@bond.collegeofthedesert.edu

Contact with any District Personnel, Bond Management Personnel or any Board Member other than those listed above shall be grounds for the disqualification of the firm submitting a Proposal.

In order to be considered for selection as a Construction Manager, the respondent firm, or firms, or team will submit the following items in the specified order.

1. **Letter of Introduction**

Letter of introduction on company letterhead, shall include the name, address, email address and phone number of the contact person in response to this RFQ. Letter shall not exceed one page and should demonstrate your firm's familiarity with managing projects within a bond program structure with specific relevant experience. This letter should introduce the team and include as a minimum:

- a. Identify individual (person) or individual(s) who will be responsible in oversight capacity for work; and identify individual or individuals, who will be leading the Construction Management team.
- b. If submitting as a team, note which team member (company) is the prime consultant, or how the contractual relationship of the team will be managed.

2. **Table of Contents**

3. **Firm Information**

In addition to the information required above, and using as a minimum the following additional criteria, the Respondent should communicate its qualifications to provide the services identified in Section D Scope of Services provided under This RFQ.

- a. Firms Project/Construction Management services philosophy and process
- b. Capacity and capability of company, provide ability to draw upon a multidisciplinary staff to address services outlined
- c. Experience in managing construction on projects for higher education facilities
- d. Dollar Value of the three (3) largest projects within the past five (5) years that your firm has managed from design, through construction to occupancy and DSA certification
- e. Experience on DSA regulated projects preferably higher educational facilities
- f. Current workload and next six-month backlog for proposed staff

4. **Project Team**

Provide resumes of proposed project team. Identify their qualifications relevant to educational projects and to the type of project outlined in Section B the Project Description. Include the following on the one (1) page resume for each team member:

- a. Proposed Role
- b. Number of years employed by the firm
- c. Proposed team's experience with each other
- d. CM Multi Prime Experience
- e. Experience with projects of similar dollar value and duration
- f. Education
- g. References

It is the District's expectation that the Proposed Project Team will be the one that, if selected to perform CM services, will be the team that will be onsite. Substitutions will not be accepted unless the team member is no longer in your employ.

5. **Project Experience**

Discuss methods to be employed in managing this project and how these will ensure the success of the project. Specifically address the firm's approach to the following:

- a. Working as an integrated project team
- b. Phases as outlined in Section D Scope of Services
- c. Interaction with Architects and DSA
- d. Experience with LEED and Sustainability
- e. Value Engineering and Constructability Reviews
- f. Bid Packaging and Bid Management
- g. Managing Master and Contractor Schedules
- h. Managing Project Budgets, Allowances and Contingencies
- i. Cost Saving Measures

- j. Change Management
- k. Developing and Maintaining a Logistic Plan
- l. State, Public and Utility Agencies
- m. Managing Secondary Effects
- n. Experience with FF & E Management and provide examples
- o. Managing Contractors and Consultants
- p. Developing and Managing a Quality Controls Plan
- q. Managing RFI's and Submittals
- r. Emergency Management
- s. Organizing and maintaining an onsite presence, include information pertaining to:
 - 1. Office FFE
 - 2. Fencing for staging area
 - 3. Temporary Power
 - 4. Sign & Traffic Management
- t. Close out and Turn over of a project to the owner
- u. Reporting and Communications

6. References

Provide at least five (5) references within the last five (5) years for projects in similar nature, dollar value, and duration and delivery method. Three of these references should be from School Districts or Public Agencies that can attest to the quality and responsiveness of your firm's services. Include the following:

- a. Name, Address and Phone number of District
- b. Contact Name and email address
- c. Project Description and Status of Project
- d. Duration
- e. Number, amount and percentage of change orders

7. Litigation, Claims, Conflicts and Insurance

Provide a statement that outlines all construction management related items listed below for the past five (5) years:

- a. Litigation filed either by an owner or an owner's consultant or contractor, which names the construction manager's employees, consultants or consultants employees as defendants of any tier. State the nature of the complaint, the beginning and end date, or anticipated end date of each lawsuit, case number of proceeding and the judgement or resolution or anticipated judgement or resolution.
- b. Termination for default and information concerning any convictions for filing false claims.
- c. Bankruptcy and the date the petition was filed and the county in which the petition was filed, if applicable.
- d. Identify any other names or businesses that the firm has used in the past and the reason that the named firm is no longer being used.
- e. Any recent, current or anticipated obligations that relate in any way to similar work, the Project or the District that may have a potential to conflict with the firm's ability to provide the services described to the District.
- f. Direct or indirect business, financial or any other connection with any official, employee, or consultant of the District.
- g. Insurance claims or non-renewal of insurance policy in direct relation to a District Project. Indicate that your firm understands and has the ability to meet the Districts minimum Insurance requirements as outlined in the Contract.

Firms cannot submit, propose, bid, contract, subcontract, consult or have any other economic interests in the Project for which the firm may provide services. The firm selected to provide services and any subsidiary, parent, holding company or affiliate of the selected firm, may not perform any construction work or submit a bid for the project.

G. ACCEPTANCE OF CM CONTRACT

Provide statement of acknowledgement and acceptance of CM agreement. The Agreement is

attached for review. It is the District's intention to use agreement as written.

H. FEE PROPOSAL

Please provide a fee proposal in a separate sealed envelope clearly marked "Fee Proposal". Assume the following schedule:

- Design – Eight (8) Months
- DSA Approval – Six (6) Months
- Bid/Award – Three (3) Months
- Construction – Eighteen (18) Months
- Post Construction Two (2) Months

The fee proposal should provide sufficient information for the District to have a complete understanding of how the figures were calculated and the fee should include all costs inclusive of any Basic Services and/or General Conditions that the CM would anticipate. Provide those costs associated with Personnel both anticipated to be on site and in house that might provide a service in the normal course of your business. Provide a Schedule of Hourly Rates for any additional services that the District may require.

I. SELECTION PROCESS

The District's selection process will include a review and evaluation of responses by District staff and/or District Consultants. Selection will be based upon a variety of criteria including the complete responsiveness of the RFQ submittal, demonstrated competence and the professional qualifications necessary to meet the District's needs to perform coordination, scheduling, oversight and related construction management services as described in this RFQ/P. After the initial screening of the responses, the District will determine which firms have met the District's requirements and will conduct in person interviews with those firms.

District reserves the right, at its sole discretion, to accept or reject any and all responses and proposals received as a result of this RFQ/P and to waive any informalities or irregularities in any response or proposal received. All costs associated with the firms response to the RFQ/P is the sole responsibility of the responding firm.

ATTACHMENT 1

CONSTRUCTION MANAGEMENT SERVICES AGREEMENT

This Construction Management Services Agreement (“Agreement”) is entered into this **XX day of <insert month>, 20XX** by and between **DESERT COMMUNITY COLLEGE DISTRICT** (“District”) and **<insert name>** (“CM”). The District and the CM are collectively referred to in this Agreement as “the Parties.” This Agreement is entered into with reference to the following recitals, all of which are incorporated herein by this reference.

RECITALS

WHEREAS, the District anticipates design and construction works of improvement commonly referred to as **<insert project name>** (“The Project”).

WHEREAS, the Project is part of a building program consisting of the development, design and construction of a number of different works of improvement.

WHEREAS, in connection with the District’s building program, the District has retained a Program Manager to provide services relating to management of the building program, including without limitation, the development of budgets and schedules for projects included within the building program and the establishment of processes and procedures for implementation in connection with the development, design and construction of the projects included within the building program (“Program Procedures”).

WHEREAS, the District has retained an architect (hereinafter “the Architect”) to provide and perform certain services as an architect in connection with design, bidding and construction of the Project.

WHEREAS, the Architect will complete preparation of the Design Documents for the Project in a series of sequential phases described as Programming, Schematic Design, Design Documents and Construction Documents.

WHEREAS, jurisdiction over the Design Documents for the Project is vested in the Division of State Architect (“DSA”).

WHEREAS, the District has elected to bid construction of the Project to multiple contractors (“Trade Contractors”) and to construct the Project by the District entering into contracts (“Trade Contracts”) with the successful bidder for each Trade Contract.

WHEREAS, the District desires to retain the CM to provide construction management and related services in connection with reviews of the Design Documents prepared by the Architect for the Project, bidding of Trade Contracts for construction of the Project, and construction of the Project.

WHEREAS, the CM submitted a written proposal dated **<insert date>, for the <insert project name>** setting forth its proposed scope of construction management services for the Project and its proposed price for providing such services (“the CM Proposal”); the CM Proposal is attached.

WHEREAS, the CM is a professional construction manager, duly qualified and capable of providing the Basic Services described herein in accordance with the terms hereof.

NOW THEREFORE, for good and valuable consideration, the receipt and adequacy of which is acknowledged by the Parties, the Parties agree as follows:

<insert name>
Agreement Dated:
\$XXX,XXX
Insert Accounting String
Insert Project Name
Construction Management Services
MAAS Project #

AGREEMENT

ARTICLE 1: BASIC SERVICES

- 1.1 General; Phases of Basic Services. The CM shall provide and perform the Basic Services more particularly described in this Agreement. The Basic Services shall be performed and completed in a series of sequential Phases generally described as: Pre-Construction, Construction and Post-Construction. The scope of the CM's Basic Services and obligations during each Phase of the Basic Services shall be as set forth herein. All of the Basic Services during the Construction Phase shall be performed or provided by or under the direction and control of an individual employed by the CM and who is a licensed architect, registered engineer or employed by a licensed contractor under California law. Basic Services under this Agreement include without limitation the General Conditions items to be provided by the CM during the Construction Phase, as further described in this Agreement and CM Proposal hereto.
- 1.2 Relationship of CM to Other Project Participants. The CM acknowledges that the District has entered into, or will be entering into, contracts with other parties pertaining to the design, bidding and/or construction of the Project, including without limitation, contracts with the Architect, the Inspector, and Test/Inspection service providers and others. As the District has engaged or will engage an Architect to produce a design whose documents that CM can rely upon, the Architect is responsible for the adequacy and sufficiency of the project design and the content of the design documents for the project. The CM acknowledges that accomplishing the Project objectives of the District require that the CM and other parties under Project related contracts with the District each completely and timely perform in accordance with their respective contractual obligations and in a collaborative manner consistent with the Project objectives of the District. The CM acknowledges and agrees that the design, bidding and construction of the Project are part of the District's building program; the CM shall comply with applicable Program Procedures and implement applicable Program Procedures in the design, bidding and construction of the Project. The CM acknowledges and agrees that its performance of the obligations under this Agreement in a complete and timely manner and in a collaborative manner with other Project participants is a material obligation of the CM under this Agreement.
- 1.3 CM Standard of Care. CM shall provide the Basic Services using its best professional skill and judgment, acting with due care and in accordance with professional standards of care, the terms hereof and applicable law, code, rule or regulation. CM's services hereunder shall be provided and completed promptly and in such a manner as to avoid hindrance, interruption or delay to the orderly progress and timely completion of the CM's review of Project Design Documents, Trade Contractors' bidding and Project construction to permit occupancy of the Project in accordance with the District's objectives.
- 1.4 CM Project Manager; Field Superintendent and other On-Site Personnel. Within five (5) days of the date of this Agreement, the CM shall prepare and submit to the District Representative a written statement setting forth the identities and qualifications of the individuals proposed by the CM as the Project Manager, Field Superintendent, Project Engineer/Coordinator and Administrative Assistant in connection with the CM's obligations under this Agreement. The CM shall provide the number of employees that will be on site full-time. The Project Manager and Field Superintendent shall be to the satisfaction of the District and the District Representative; if the District requests alternatives to the individual(s) proposed by the CM as the Project Manager or the Field Superintendent, the CM shall provide such alternatives until the District has approved of the Project Manager and the Field Superintendent. Once approved by the District, the CM shall not designate other individual(s) to serve in such capacities in connection with this Agreement without the prior consent and approval of the District, which may be granted, denied or conditioned in the sole and exclusive discretion of the District. The Project Manager shall: (a) be authorized to act on behalf of the CM with respect to this Agreement; and (b) be authorized to render binding decisions on behalf of the CM.

ARTICLE 2: GENERAL CONDITIONS.

2.1 Description of General Conditions. General Conditions are defined as those generic support conditions which must be in place to support all construction aspects of the Project. The General Conditions to be provided by the Construction Manager in connection with the Project are listed in Exhibit "A", attached hereto and by this reference incorporated herein.

2.2 Payment for General Conditions. Payment for General Conditions shall be invoiced by the Construction Manager, and paid by the District, monthly in accordance with the terms and provisions of this Agreement.

ARTICLE 3: DISTRICT RESPONSIBILITIES.

3.1 District Information. The District shall provide full information to the CM regarding the Project, as applicable, including its Project objectives, Project schedule requirements, Project budget limitations and other constraints and requirements which may affect the Project Budget, time for completion of Project construction or Project scope. The District shall provide the CM with its Project and Construction Budgets for review by the CM.

3.2 District Representative. The District shall designate a representative to act on its behalf with respect to the Project and who shall be authorized to render decisions on behalf of the District, as applicable, and to carry out the responsibilities of the District under this Agreement ("the District Representative"), all of which shall be discharged or performed in a manner so as to avoid unreasonable delay in the orderly and sequential progress of the CM's performance of services and other obligations hereunder. Unless modified by subsequent written notice, the District Representative is the Director of Maintenance & Operations or authorized designee.

3.3 Tests/Inspections. In accordance with applicable law, rule or regulation, the District shall: (a) retain a Project Inspector ("Inspector") to provide construction observations as required by applicable laws, rules or regulations; and (b) retain Test/Inspection Service Providers to conduct Construction Phase tests/inspections of materials/equipment forming a part of the Project, as required by applicable law, rule or regulation. At the sole and exclusive discretion of the District, the Inspector and Test/Inspection Service Providers will be retained for the District Project. The retention of the Inspector or the Test/Inspection Service Providers shall not affect the CM's obligations or rights set forth in this Agreement. The foregoing notwithstanding, as set forth below, the Basic Services of the CM include assistance to the District in the selection and retention of the Inspector and the Test/Inspection service providers.

3.4 District Consultants. Except to the extent of Design Consultants retained by the Architect, other consultants required or desired by the District in connection with the Project shall be retained and paid for by the District. Such other consultants include, without limitation, legal counsel, insurance/surety consultants, insurance consultants, and testing labs.

ARTICLE 4: PRE-CONSTRUCTION PHASE

4.1 Project Programming. After the date of this agreement, the CM's Project Manager and other necessary or appropriate personnel of the CM shall participate in meetings, conferences and other discussions with the District, the District Representative, the Architect, District/Campus committees, the District's Board of Trustees and others to establish the functions, activities, space allocations and other general matters relating to establishment of the programming, functional, space and design requirements for the Project, if such meetings occur.

4.2 Review of Design Documents. The CM, including the CM's Project Manager and Field Superintendent,

<insert name>

Agreement Dated:

\$XXX,XXX

Insert Accounting String

Insert Project Name

Construction Management Services

MAAS Project #

shall periodically review the Design Documents being completed by the Architect to confirm that the Design Documents as prepared by the Architect conform to the District's requirements for the Project, including without limitation, the requirements of the Project established in the Programming Phase. If the CM determines that the Architect's development of the Design Documents is not in conformity with the Project requirements (including schedule and budget) or the Architect's obligations under its contract with the District for the Project, the CM shall notify the District Representative in writing of such determination along with recommendations to secure the Architect's compliance with Project requirements or requirements of its contract with the District. The CM shall implement remedial measures as authorized or directed by the District. The CM's review of Design Documents shall include services to complete Value Engineering and Constructability Reviews of the Design Documents as set forth below.

4.2.1 Value Engineering. The CM's review of Design Documents shall include value engineering and life-cycle cost analysis. If, upon completing its review of the Design Documents, the CM believes that Work of the Project depicted in the Design Documents, construction processes/procedures, specified materials/equipment or other aspects of the Design Documents can be modified to reduce Construction Costs and/or the time for construction of the Project and/or to extend life-cycle and/or to reduce maintenance/operations costs, without diminution in the quality of materials/equipment/workmanship, scope or intended purposes of the Project, the CM shall identify the same in writing ("the Value Engineering Recommendations") for review and acceptance by the District. The CM shall complete Value Engineering Reviews of the one hundred percent (100%) completed Schematic Design Phase and the fifty percent (50%) and one hundred percent (100%) completed Design Documents Phase. The District shall have the sole and exclusive discretion to accept some, all or none of the CM's Value-Engineering Recommendations. If the District accepts any of the CM's Value Engineering Recommendations, the CM shall review the Design Documents as modified by the Architect for confirmation that the District accepted Value Engineering Recommendations are incorporated into the Design Documents to be issued on behalf of the District for bidding by Trade Contractors. If the CM determines that the Architect has not incorporated into the Design Documents the Value Engineering Recommendations accepted by the District, the CM shall advise the District of measures to ensure that the Design Documents issued for bidding by Trade Contractors incorporate the District accepted Value Engineering Recommendations. The CM shall implement such measures to obtain the Architect's compliance as directed or authorized by the District.

4.2.2 Constructability Review. The CM shall review the Design Documents to ascertain whether the Project, as depicted in the Design Documents: (a) accurately and completely reflect the District's Project objectives; (b) conform to the District's construction standards and design guidelines applicable to the Project; (c) reflect the Architect's design in accordance with the Architect's professional standards of care applicable to the Project; and (d) are clear, consistent and coordinated. The Constructability Reviews conducted by the CM are distinguished from the actions, responsibilities and work product of the Architect. The CM's Constructability Reviews shall, however, represent the CM's best professional judgment that the Design Documents prepared by the Architect conform to the standards set forth in (a)-(d) above. The CM shall complete Constructability Reviews of the one hundred percent (100%) completed Design Development and the 50% Construction Documents. The District shall have the sole and exclusive discretion to accept some, all or none of the CM's Constructability Review Comments. If the District accepts any of the CM's Constructability Review Comments, the CM shall review the Design Documents modified by the Architect for confirmation that the District accepted Constructability

Review Comments are incorporated into the Design Documents issued on behalf of the District for bidding by Trade Contractors. If the CM determines that the Architect has not incorporated into the Design Documents the Constructability Review Comments accepted by the District, the CM shall advise the District of measures to ensure that the Design Documents issued for bidding by Trade Contractors incorporate the District accepted Constructability Review Comments. The CM shall implement such measures as directed or authorized by the District.

- 4.2.3 District Review of Value Engineering Recommendations and Constructability Review Comments; Incorporation of Accepted Value Engineering Recommendations and Constructability Review Comments. Upon receipt of the CM's Value Engineering Recommendations and the CM's Constructability Review Comments, the District shall promptly complete review of the same. Within fifteen (15) days of the date of the CM's submission of its Value Engineering Recommendations and its Constructability Review Comments, the CM and the District Representative shall meet and confer to arrive at mutually agreed Value Engineering Recommendations and Constructability Review Comments to be incorporated by the Architect into the Project Design Documents.
- 4.3 CM Estimate of Construction Costs. The CM shall prepare and submit to the District Representative the CM's Estimate(s) of Construction Costs based upon the one hundred percent (100%) Schematic Design documents, one hundred percent (100%) Design Development documents, fifty percent (50%) Construction Documents and ninety five percent (95%) Construction Documents. If the CM's Estimate of Construction Costs based upon the 100% Design Development documents exceeds the Construction Budget established by the District for the Project by five percent (5%) or greater, the CM shall make recommendations to the District, for measures to reduce the Estimate of Construction Costs to conform to the Construction Budget for the Project. If the CM's Estimate of Construction Costs for the Project is less than the Construction Budget for the Project by five percent (5%) or more, the CM shall make recommendations to the District, for items to incorporate into the Project to conform the CM's Estimate of Construction Costs with the Construction Budget for the Project. If the Architect prepares an Estimate of Construction Costs based upon the 100% Design Development documents and the Architect's Estimate varies from the CM's Estimate by three percent (3%) or more, the CM and Architect shall meet and confer to reconcile such differing Estimates.
- 4.4 Labor/Materials Marketplace Survey. The CM shall survey the existing labor and materials marketplace conditions in the locality of the Project to ascertain the availability of suitable labor and materials necessary to complete Project construction ("Marketplace Survey"). The CM shall complete the Marketplace Survey and provide the District Representative with a written evaluation of the extent of available and suitable labor/materials and whether the CM anticipates that the extent of available and suitable labor/materials will impact the costs/time for completion of Project construction concurrently with its completion of the Value Engineering and Constructability Reviews of the 50% Construction Documents. If the CM concludes that the extent of available and suitable labor/materials may have an adverse impact on costs/time for completion of Project construction, the CM's written evaluation shall include recommendations for measures to mitigate such potential adverse impacts to costs/time.
- 4.5 Development of Bid Packages. Based upon its review of the Design Documents (including any District accepted Value Engineering Recommendations and Constructability Review Comments), the CM shall develop written Bid Package descriptions suitable for bidding by Trade Contractors. The Bid Packages developed by the CM shall be submitted to the District Representative for review and acceptance by the District concurrently with the Architect's submission of Design Documents to DSA for approval. Within ten (10) days of the CM's submission of its proposed Bid Packages to the District Representative, the District and the District Representative will complete review of the Bid Packages and provide the CM with comments, requested modifications and similar matters relating to the proposed Bid Packages. Within ten (10) days of the CM's receipt of such comments, requested modifications and similar matters, the CM shall revise and re-submit the revised Bid Packages to the District Representative for

acceptance by the District. Notwithstanding the foregoing provisions or any other provisions of this Agreement, the review of Bid Packages by the District Representative and acceptance of Bid Packages by the District: (a) shall not relieve the CM of its responsibility under this Agreement for developing Bid Packages which incorporate therein all work, labor, materials, equipment and services necessary to construct the Project depicted in the Design Documents issued on behalf of the District for bidding by Trade Contractors; or (b) deemed the assumption of responsibility by the District for the completeness, accuracy or sufficiency of any Bid Package or the totality of the Bid Packages developed by the CM. The CM shall modify the Bid Packages as necessary to obtain the District's acceptance of the entirety of each Bid Package and the entirety to all Bid Packages. The CM shall be responsible for incorporating into each Bid Package and identifying all work, labor, materials and services required under each Bid Package so that the Project, as constructed by the Trade Contractors, is as depicted in the Design Documents issued for bidding, subject to District authorized modifications during the bidding process and/or District approved Changes during the Construction Phase.

- 4.6 Bid-Time Master Project Schedule. Based upon Bid Packages accepted by the District Representative, within fifteen (15) days of the District's acceptance of all Bid Packages proposed by the CM, the CM shall develop and submit to the District Representative for review and acceptance by the District a Bid-Time Master Project Schedule which is: (a) consistent with the District's time objectives for completion of Project Construction; and (b) reflects all of the Work of each Bid Package necessary to complete Project construction in accordance with the Design Documents. The CM shall use District scheduling software, if required. The Bid-Time Master Project Schedule shall be prepared with the most recent edition of commercially available software designed specifically for the scheduling of construction projects and which utilizes the critical path method of scheduling. The CM's scheduling software will require approval of the District Representative which may be granted, withheld or conditioned in the sole discretion of the District Representative. The Bid-Time Master Project Schedule shall indicate the start/finish dates for the principal activities of each Bid Package necessary to complete Project construction. The CM shall sequence, schedule and coordinate the work of each Bid Package in the Bid-Time Project Master Schedule in a logical, reasonable and orderly manner so that Project construction can be completed for the Construction Budget and within the time established by the District. If the District's requirements for the Project include phasing construction of elements of the Project, the District's phasing requirements shall be set forth in the Bid-Time Master Project Schedule. The CM acknowledges that the Bid-Time Master Project Schedule prepared by the CM will be included in the Bid Documents for each Bid Package and that Trade Contractors bidding on a Bid Package will rely upon the Bid-Time Master Project Schedule in developing their respective Bid Proposals. Accordingly, the CM is solely responsible for the accuracy and completeness of the Bid-Time Master Project Schedule and the reasonable, logical and orderly scheduling, sequencing and coordination of the Trade Contractors' construction and construction-related activities to complete Project construction within the time and Construction Budget established by District.
- 4.7 Review and Assembly of Bid Documents. For Multi-Prime projects, the CM shall create complete scope of work for each Prime Trade Contractor bid package, sufficiently defined for the purposes of bidding. The CM shall review and recommend modifications to the District's standard forms of bid and contract documents for each Trade Contract. The CM shall assemble bid and contract documents for each Bid Package for submission to the District Representative for review and acceptance by the District. The CM shall not issue any bid or contract documents for bidding by Trade Contractors until all of the bid and contract documents for all Bid Packages are accepted by the District Representative. In addition, bid documents shall require all Trade Contractors to name District and CM as additionally insured on all Trade Contractor required insurance policies evidenced by insurance certificate and endorsement 2010 11/85 endorsements.
- 4.8 Authority to Bid. The CM shall review approvals heretofore obtained by or on behalf of the District relating to authority of the District to engage in bidding the Project for construction. The CM shall work with the District to ensure all regulatory approvals relating to authority of the District to engage in bidding Project construction; if there are known limitations to the District's authority to bid the Project the CM

shall advise the District of the same and as directed assist the District in removing such limitations.

4.9 Bidding of Trade Contracts

- 4.9.1 Advertisements. The CM shall develop, for review by the District Representative, such legal advertisements of the availability of Bid Packages for bidding as required by applicable law. Upon the District Representative's approval of the CM developed legal advertisements, the CM shall place such advertisements in a newspaper of general circulation in Riverside County. The CM shall also make recommendations to the District Representative for placement of notices and issuance of other communications for the purpose of publicizing the availability of the Bid Packages for bidding by Trade Contractors. The CM shall place such other notices and issue communications for such purposes as directed or approved by the District Representative. The direct charges for placement of such advertisements shall be borne by the District.
- 4.9.2 Trade Contractor Pre-Qualification. The CM shall make recommendations to the District relative to engaging in a pre-qualification process for all or some of the Bid Packages. If the District elects to engage in the pre-qualification process for any of the Bid Packages, the CM shall: (a) develop pre-qualification criteria and the pre-qualification application; (b) develop and place advertisement(s) in a newspaper of general circulation in Riverside County of the availability of pre-qualification applications; (c) develop and implement a program to inform potential bidders for the Bid Packages subject to pre-qualification of the pre-qualification process and to encourage potential Trade Contractors to engage in the pre-qualification process; (d) review and evaluate responses to the pre-qualification application; and (e) make recommendations to the District for selection of Trade Contractors deemed pre-qualified to submit Bid Proposals for Bid Packages subject to the pre-qualification process. Notwithstanding the CM's obligations pursuant to the preceding, the selection of potential bidders deemed pre-qualified shall be subject to the review and acceptance by the District Representative.
- 4.9.3 Dissemination of Bid Documents to Trade Contractors. The CM shall establish a system for reproduction and dissemination of Bid Documents to Trade Contractors and for maintaining records of the identities/addresses/telephone-fax numbers/email addresses of the Trade Contractors who have obtained Bid Documents. Electronic files and paper copies of the CM's records relating to potential Trade Contractor bidders who have obtained the Bid Documents shall be available to the District upon request of the District Representative to the CM.
- 4.9.4 Trade Contractors Campaign; The CM shall, by all appropriate means of communications, advise Trade Contractors of the availability of Bid Packages for bidding by Trade Contractors. The CM shall endeavor to maximize the participation of qualified Trade Contractors whose principal place of business is situated in Palm Desert. The CM shall maintain written or electronic records of contacts made and communications transmitted to/received from potential bidders for the Bid Packages. All such records shall be available for review and/or reproduction by the District upon request of the District's Representative.
- 4.9.5 Pre-Bid Conference(s). The CM shall conduct pre-bid conferences, including the job walk(s), which are required or scheduled in the Bid Documents for any Bid Package. The pre-bid conference shall include without limitation: (a) description of the Project and each Bid Package; (b) description of the process for bidding and award of Trade Contracts; and (c) material requirements of the Trade Contracts relating to bonds, insurance and similar administrative requirements of the Trade Contracts, including requirements/information on prevailing wage rate obligations of the Trade Contractors

and their Subcontractors. The job walk shall provide Trade Contractors with an overview of the Site and an understanding of the physical limitations and constraints affecting the Work of the Project or portions thereof. As necessary or appropriate the CM shall conduct separate, detailed pre-bid conferences with potential bidders for specific Bid Packages. The CM shall develop a process for monitoring attendance by potential Trade Contractor bidders and their potential Subcontractors at job walk(s) and pre-bid conferences. The process developed by the CM shall include without limitation information relating to: (a) each potential Trade Contractor bidder and each potential Subcontractor bidder to a potential Trade Contractor bidder in attendance; (b) the identity and contact information for the representative of each potential Trade Contractor and each Subcontractor to a potential Trade Contractor bidder (including address, telephone number(s), fax number(s) and email address); and (c) whether the representative of each potential Trade Contractor bidder and potential Subcontractors were in attendance for the entirety of the job walk or pre-bid conference, as applicable. The CM shall record and transcribe minutes of the pre-bid conferences and job walk(s). Minutes maintained by the CM shall be issued by the CM to all bidders who have theretofore obtained the Bid Documents, the District Representative and the Architect.

4.9.6 Opening/Reading of Bid Proposals. The CM shall, with assistance of the District Representative, conduct the public opening and reading of Bid Proposals for Bid Packages. Upon completing the public opening and reading of Bid Proposals, the CM shall develop and submit to the District Representative written summaries of the results of bidding for each Bid Package; the summary shall include identities of the Bidders, the amount proposed by each Bidder, including amounts proposed for Alternate Bid Items, if any included in the bidding for any Bid Package and the identification of the apparent low bidder for each Bid Package.

4.9.7 Review of Bid Proposals; Recommendations for Award of Trade Contracts. The CM shall review the submitted Bid Proposals to determine: (a) whether the bidder submitting the Bid Proposal is a responsible bidder; (b) whether the Bid Proposal is responsive to material bidding requirements for the Bid Package; and (c) the price proposed for the base scope of Work of each Bid Package and for each Alternate Bid Item, if any, included in the bidding of any Bid Package. The CM shall make recommendations to the District regarding: (a) rejection of a Bid Proposal based upon the "non-responsibility" of the bidder; (b) rejection of a Bid Proposal for non-responsiveness to material bidding requirements of a Bid Package; (c) rejection of a Bid Proposal for any other reason; (d) rejection of all Bid Proposals; and (e) award of Trade Contracts. To the extent that the bidding for a Trade Contract include Alternate Bid Items, the CM shall make written recommendations for the District Representative for the Alternate Bid Items, if any, to be included in the scope of the Trade Contracts awarded by the District. The CM shall make written recommendations to the District Representative for award of the Trade Contracts. The CM is not authorized to award any Trade Contract. Award of a Trade Contract shall only be by action of the District.

4.9.8 Bid Protest. If Bid Protests are asserted in connection with any Bid Package, the CM shall assist the District in the evaluation and disposition of all Bid Protests.

ARTICLE 5: CONSTRUCTION PHASE

5.1 Administration and Coordination of Trade Contracts and Construction. CM shall provide administrative, management and related services necessary to administer the Trade Contracts and to schedule, sequence and coordinate the Work of the Trade Contractors during the Construction Phase of the Project so that the District's Project objectives (including without limitation, budgetary and time objectives) are achieved and that the work of each Trade Contract is completed in strict conformity with

<insert name>

Agreement Dated:

\$XXX,XXX

Insert Accounting String

Insert Project Name

Construction Management Services

MAAS Project #

the requirements of each Trade Contract. The CM's responsibilities include without limit: (a) assisting the District with Notice(s) to Proceed directing commencement of work under the Trade Contracts; (b) scheduling, coordinating and conducting pre-construction and weekly construction meetings; recording, maintaining and distributing minutes thereof; (c) in consultation with the Architect, develop and implement procedures for the submission and processing of Submittals, RFI's, Change Requests and Change Directives required by each Trade Contract; (d) in consultation with the District and the Architect, develop and implement procedures for the handling and disposition of the Trade Contractors' requests for information or clarifications; (e) establish and implement procedures for the transmittal and receipt of communications, drawings and other information between the District, District Representative, CM, Architect, Inspector, Test/Inspection services, Program Manager and the Trade Contractors relating to Project construction; (f) assist the District in selection and retention of Test/Inspection Service Providers and the Inspector; (g) schedule, sequence and coordinate activities of the Trade Contractors; and (h) allocate Site staging and storage areas among the Trade Contractors.

5.2 Monitoring of Construction Costs. CM will monitor on-going Construction Costs and advise the District of the financial condition of the Project by: (a) development of Project cash flow reports, forecasts and other financial reports to the District, including those reflecting variations between actual Construction Costs and the Construction Budget and estimated costs of unperformed Project activities; (b) maintaining records reflecting the actual costs for activities completed or in progress, including records relating to work performed on a unit cost basis and additional work performed by the Trade Contractors on a time and materials basis; (c) monitor and advise the District of costs pertaining to potential, pending and completed changes to any Trade Contract; and (d) advising and making recommendations to the District for adjustments to the Construction Budget relative to actual or anticipated Construction Costs. Data, information and analysis of Project Construction Costs pursuant to the foregoing shall be maintained separately by the CM for the District Project. The CM shall prepare and submit cost reports (which summarize and present in a logical format the information derived from (a)–(d) above), to the District Representative on a monthly basis; provided that if the District Representative reasonably determines that more frequent cost reports are required, the CM shall comply with the directive(s) of the District Representative. The information compiled by the CM and reports generated by the CM relating to Construction Costs shall be in such detail and format as required by the District Representative and the Program Procedures. In addition the extent of detail and the nature of the format of such reports, the information compiled by the CM and reports generated by the CM shall specifically indicate the original Contract Price of each Trade Contract, the extent of adjustment to the original Contract Price for each Trade Contract by District approved Change Orders and the extent of potential further adjustment to the original Contract Price of each Trade Contract as of the date of the CM's report based upon the Change(s) or potential Change(s) known to the CM at the time of the CM's preparation of a cost report for a Trade Contract.

5.3 Payments to Trade Contractors.

5.3.1 Trade Contractors' Applications for Progress Payments. The CM shall develop and implement procedures for Trade Contractors' submittal of Applications for Progress Payments and the review, processing and disbursement of Progress Payments to Trade Contractors, along with associated forms and reporting systems. The CM shall, along with the Architect and Inspector review and certify to the District the amount due on Trade Contractors' Application for Progress Payment, CM's Progress Payment certifications shall constitute the CM's representation to the District that, based on CM's observations and professional evaluation at the Site, the data in each Application for Progress Payment, and to the best of CM's knowledge, information and belief, the Work has progressed to the point indicated in the Application for Progress Payment and the quality of the Work is in generally in accordance with the Contract Documents for the Trade Contract subject only to results of subsequent tests, inspections and other procedures, minor deviations from requirements of the Trade Contracts correctable prior to completion and any specific qualifications expressed by CM in its certification. CM's issuance of a Certificate pursuant to the preceding shall be a representation that the Trade Contractor(s) is/are entitled to payment in the amount so certified. The CM's

review and processing of Applications for Progress Payment shall be undertaken and completed in a timely manner so that its Progress Payments due each Trade Contractor are disbursed within the time permitted by applicable law without the District incurring interest liability or other penalties/liabilities. If interest liability or other penalties/liabilities accrue to the District solely as a result of the CM's untimely completion of its obligations relative to review/processing of Trade Contractor's Applications for Progress Payments, the CM shall be liable to the District for the same.

5.3.2 District Disbursement of Progress Payments. The District shall disburse progress payments due Trade Contractors under a Trade Contract upon the CM's presentation of: (a) the Trade Contractor's request for payment; (b) documentation supporting the Trade Contractor's payment request; and (c) the verification/certification from the CM, Architect and Inspector of the amount due the Trade Contractor on such payment request, based on the applicable provisions of the Trade Contract. Within thirty (30) days of the date of the Trade Contractor's submission of all of the foregoing to the District, the District shall make payment to the Trade Contractor(s) of the amount verified by the CM, Architect and Inspector as being due the Trade Contractor, except to the extent that the District's payment of such amount or any portion thereof is subject to withholdings for Stop Notice, Prevailing Wage Rate violations or other withholdings of payment(s) due the Trade Contractor under the terms of the Trade Contract or by operation of law.

5.4 Substantial Completion; Punch list. Upon the Architect issuing a Certificate of Substantial Completion for a Trade Contract, the CM shall inspect the Work of the Trade Contract to verify the Trade Contractor's achievement of Substantial Completion. If upon such inspection, the CM determines that notwithstanding the Architect's issuance of the Certificate of Substantial Completion the Trade Contractor has not achieved Substantial Completion, the CM shall: (a) meet and confer with the Architect and District Representative to address/resolve differences between the CM and the Architect; (b) notify the District in writing of its determination; (c) identify the portions of the Work of the Trade Contract to be completed in order for Substantial Completion to be achieved; and (d) set forth recommendations to the District for measures to secure Substantial Completion of the Trade Contract. If authorized by the District, the CM shall enforce measures necessary to achieve Substantial Completion of a Trade Contract.

5.5 Project Progress.

5.5.1 Master Project Schedule. CM shall, within fifteen (15) days of the completion of the bidding process for Trade Contractors, develop an overall comprehensive Project Schedule for construction of the Project showing the activities of each of the Trade Contractors necessary for completion of Project construction ("Master Project Schedule") which is consistent with the District's objectives for completing Project construction. CM will incorporate the Trade Contractors' separate Construction Schedules into the Master Project Schedule to the extent that the same do not impair the District's time objectives for completing Project construction. During the course of Project construction and based upon Trade Contractors' updated Construction Schedules, CM shall monitor and update the Master Project Schedule on a monthly basis or more frequently as may be requested from time-to-time by the District so that the District is kept fully informed at all times of the status and progress of overall Project construction and the status of each Trade Contractors' construction progress. Where the actual rate of Project construction progress is behind that indicated by the Master Project Schedule, CM shall advise and make recommendations to the District for remedial action. The CM shall implement and enforce remedial measures as authorized or directed by the District.

5.5.2 Trade Contractors' Schedules. CM shall review the Trade Contractors' Construction Schedules and updates thereof, advising the District of compliance with the terms of the Trade Contract along with remedial measures appropriate to obtain compliance if necessary. The CM shall implement and enforce remedial measures as authorized or directed by the District.

5.5.3 Coordination of Construction Activities. CM shall coordinate the activities of the Trade Contractors with each other and those of the CM, the Architect, Inspector, Test/Inspection Service Providers, others and the District in conformity with the Master Project Schedule, including the coordination and sequencing of Trade Contractors' construction activities so that Site space is appropriately allocated and the progress of construction per the Master Project Schedule is maintained. Obligations of the CM under this Agreement are to endeavor to schedule, coordinate and sequence the activities of the Trade Contractors in a manner so that Project construction is completed in accordance with the District's time objectives.

5.5.4 Coordination of Deferred Approvals. If any component of the Project is identified/designated as a "Deferred Approval Items" or words/terms of a similar nature, the CM shall incorporate the time for the Trade Contractor's design of the Deferred Approval Item, the Architect's review of such design(s) and DSA review/approval of such design(s) into the Master Project Schedule. The CM shall coordinate the actions of the Trade Contractor(s) and the Architect so that progress of completing Deferred Approval Items is maintained in accordance with the Master Project Schedule.

5.5.5 Progress Records. CM will maintain records of the progress of Project construction, including written progress reports and photographs reflecting the status of Project construction and percentage completion. CM will maintain daily records during Project construction showing weather conditions, Trade Contractors and their Subcontractors at the Site, work accomplished under each Trade Contract, problems encountered and other matters materially affecting the Project, completion of the Project or Construction Costs. CM shall verify that as-built drawings are current and up to date, on a daily basis.

5.5.6 Final Completion. Upon the Inspector and/or the Architect issuing a Certificate of Final Completion for a Trade Contract, the CM shall inspect the Work of the Trade Contractor and confirm that the Trade Contractor has fully complied with all requirements of the Trade Contract relating to the Work and the Trade Contractor's other obligations under the Trade Contract and that Final Completion under the Trade Contract has been achieved. If upon such inspection and confirmation, the CM determines that notwithstanding the Certificate of Final Completion issued by the Inspector or the Architect, the obligations of the Trade Contractor under its Trade Contract have not been fully performed in accordance with the terms of the Trade Contract and that Final Completion has not been achieved, the CM shall: (a) meet and confer with the Architect/Inspector and District Representative to address and resolve differences concerning final completion; (b) notify the District in writing of its determination; (c) identify the portions of the Work of the Trade Contract or other obligations of the Trade Contractor to be completed in order for Final Completion to be achieved; and (d) set forth recommendations to the District for measures to secure Final Completion of the Trade Contract. If authorized by the District, the CM shall enforce measures necessary to achieve Final Completion of the Trade Contract. Upon determining that Final Completion of a Trade Contract has been achieved, the CM shall assist the District with issuing its Certificate of Final Completion for that Trade Contract, as applicable.

5.6 Site Observations.

5.6.1 CM On-Site. During Project construction and at all times during which there are construction activities under the Trade Contracts at the Site, CM shall have its Project Manager or Field Superintendent at the Site, to observe, coordinate and manage the activities of the Trade Contractors. CM shall maintain at the Site the Trade Contracts, Drawings, Specifications, approved Change Orders, Submittals, applicable codes, rules and regulations and other written or electronic materials relating to the Project.

- 5.6.2 Construction Quality. The CM shall guard the District against defects and deficiencies in construction and workmanship on the basis of its Site observations, and a quality control program established and implemented hereunder to monitor the workmanship of the Trade Contractors for conformity with: (a) accepted industry standards; (b) applicable laws, codes, regulations, ordinances or rules; or (c) and the requirements of the Trade Contracts.
- 5.6.3 Site Safety.
- 5.6.3.1 General. The CM shall ensure that Site safety programs are implemented as necessary to comply with applicable law, code, rule or regulation and as appropriate for the Site.
- 5.6.3.2 District's Safety Program or Requirements. Prior to any Trade Contractor's performance of Work at the Site, the CM shall review the District's safety program or safety requirements, if any, meet and confer with the District Representative to review the District's safety program/requirements and to incorporate the same into the Site safety programs.
- 5.6.3.3 Review / Enforcement of Trade Contractor Safety Programs. CM shall monitor safety programs of the Trade Contractors at the Site. CM shall require each Trade Contractor to provide job hazard analysis sheets for its trade. CM shall require Trade Contractors to hold weekly safety meetings. In the event Trade Contractors fail to hold weekly safety meetings, CM will hold the weekly safety meeting to ensure that safety procedures as identified in the job hazard analysis are upheld and documented.
- 5.6.3.4 Safety Violations; Safety Conditions. The CM shall promptly notify the District Representative in writing of all CM observed instances of Trade Contractors' failure to comply with applicable safety requirements. The CM's written notice shall include identification of measures taken by the CM to secure Trade Contractors' compliance with safety programs/requirements. The CM shall monitor and enforce implementation of remedial measures to secure Trade Contractors' compliance with safety programs/requirements. In the event of a safety violation or other unsafe condition(s) on or about the Site which has/have an immediate potential or actual adverse effect on life or property, the CM is authorized to take all actions deemed necessary and appropriate by the CM under the then existing circumstances to prevent such actual or potential adverse effect. If the CM undertakes action pursuant to the preceding, the CM shall immediately notify the District Representative of the: (a) the safety violation or unsafe condition at the Site; (b) the measures undertaken by the CM to remedy or mitigate the safety violation/unsafe condition; and (c) other measures recommended by the CM to prevent further safety violations/unsafe conditions.
- 5.6.3.5 Prevailing Wage Rate Violations. The CM shall take cognizance of violations of prevailing wage rate requirements and hours of work limitations. If the CM becomes aware of any violation of required prevailing wage rates or limitations on hours of work, the CM shall notify the District Representative in writing of same and shall provide the District Representative with recommended actions relative to such violations. The CM shall implement remedial actions as authorized or directed by the District.
- 5.6.4 Site General Conditions. At all times during construction activities at the Site, the CM shall provide or cause to be provided the items of personal property and services identified in CM Proposal (Construction Phase Items) attached to this Agreement. The items and services identified in CM Proposal are included in the Construction Phase portion of Contract Price set forth in this Agreement.

5.7 Changes and Claims.

<insert name>
 Agreement Dated:
 \$XXX,XXX
 Insert Accounting String
 Insert Project Name
 Construction Management Services
 MAAS Project #

- 5.7.1 Coordination of Changes. The CM acknowledges that Changes to the scope or Work of a Trade Contract during construction of the Project are likely to increase the Project Construction Costs, extend time for completing Project construction and prevent the District from realizing its Project objectives. Accordingly, the CM acknowledges and agrees that a material obligation of the CM under this Agreement is management of circumstances which may give rise to a Change to a Trade Contract in a manner so that only necessary Changes are implemented and that the costs/time for implementation of necessary Changes are minimized. CM shall coordinate and disseminate correspondence, drawings and other written materials by and between the Trade Contractors, the District, District Representative, Inspector, Test/Inspection Service Providers and the Architect relating to Changes to the Trade Contracts. CM shall coordinate and oversee the Trade Contractors' performance of Changes authorized by the District to ensure timely and full completion of Changes. CM will maintain a log or other written records to monitor the pendency and disposition of Changes and Change Orders to keep the District advised of the status of the same and the actual or potential impact of any particular Change or Change Order or the cumulative effects thereof on Construction Costs or time for completion of Project construction.
- 5.7.2 CM Notice to District; District Decisions. Upon the CM becoming aware of circumstances which will or may require the issuance of a Change Order, the CM shall: (a) notify the District Representative of such circumstances in a prompt and timely manner taking into account the then existing circumstances of Project construction including without limitation the progress of Project construction, safety and factors affecting completion of the potential change; (b) develop, in conjunction with the affected Trade Contractor(s) and the Architect, alternative approaches to addressing the circumstances resulting in a potential change; (c) provide the District Representative with written or graphic materials describing, in detail, alternative approaches to the potential Change, along with time/cost impacts of each alternative; and (d) provide the District Representative with written recommendations for the District's selection of an approach to address the potential Change along with a description of the basis for the CM's recommendation. Upon receipt of all of the foregoing described notices and other information, the District shall make timely decisions regarding authorization to proceed with a Change; the District's decisions shall be communicated in writing to the CM through the District Representative.
- 5.7.3 Processing of Changes and Change Orders. CM shall prepare Change Orders authorized by the District and distribute the same for execution by the Trade Contractor, District, Architect and Inspector. The CM is not authorized, without the prior consent and authorization of the District, to effectuate or authorize any Change to any Trade Contract. The CM shall administer submission of District authorized changes to regulatory agencies with jurisdiction over such changes by the Architect/Inspector; the CM shall assist the District Representative in obtaining all necessary regulatory approvals for District authorized Changes; if necessary regulatory approvals have not been obtained or not obtained in a timely manner to avoid delay to Project construction and/or to avoid additional Project Construction Costs, the CM shall notify the District Representative of such circumstances along with recommendations for securing such necessary approvals.
- 5.7.4 Claims Handling.
- 5.7.4.1 General. CM shall develop a process and procedures for the review, evaluation, processing and disposition of claims asserted by Trade Contractors; CM will make recommendations to the District as to merit, handling and disposition of Trade Contractors' claims.
- 5.7.5 Emergencies. In the event of emergency circumstances actually or potentially resulting in harm/injury to persons or property, the CM shall, without prior notice or authorization of the

District, take such actions or direct such actions by Trade Contractors as necessary to prevent or mitigate harm/injury to persons or property.

ARTICLE 6: POST-CONSTRUCTION PHASE

- 6.1 Review and Transmittal of Trade Contractor Close-Out Documents. The CM shall receive from the Trade Contractors the close-out documents and items to be submitted by each Trade Contractor under the terms of their respective Trade Contracts upon completion of obligations under a Trade Contract. The CM shall, in conjunction with the Architect, review each Trade Contractor's close-out submittals to determine conformity with requirements of each Trade Contract; if the CM determines that any Trade Contractor's close-out submittals are not in conformity with requirements of the Trade Contract, on behalf of the District the CM shall take necessary actions to secure compliance with the requirements of the Trade Contract. Within ten (10) days of receipt from a Trade Contractor, the CM shall deliver to the District Representative all of the Trade Contractor's close-out submittals, except for the Trade Contractor's as-built drawings which the CM shall transmit to the Architect for the Architect's preparation of the Record Drawings. The CM shall assist the District in taking actions necessary to cause the Architect, Inspector and each Trade Contractor to prepare and submit their respective Final Reports to DSA. The CM shall not be responsible for any delays caused by the Architect, Inspector or Trade Contractors as result of their failure to submit close-out documents or Final Reports.
- 6.2 CM Project Records. Within thirty (30) days of the date of issuance of a Certificate of Final Completion for a Trade Contract, the CM shall assemble and deliver to the District all of the Project records maintained during the Construction Phase by the CM relating to the Trade Contract, including as-builts. Notwithstanding any provision of this Agreement to the contrary or any provision of law to the contrary, all documents, work product, whether of a tangible or intangible nature, whether in draft or final form and whether recorded in writing or any other medium, including without limitation, electronic files relating to the Project or this Agreement are the sole and exclusive property of the District.
- 6.3 Trade Contractors' Post-Construction Obligations. If any Trade Contractor is obligated under the terms of its Trade Contract to provide work, labor materials or services after completion of Project construction, the CM shall manage Trade Contractors' post-construction activities for conformity with requirements of the Trade Contract. The CM shall secure Trade Contractors' compliance with their respective post-construction obligations.
- 6.4 Project Reports. The CM shall monitor the filing of DSA reports and other actions required by applicable law, rule or regulation to be undertaken by the Architect, Inspector or Trade Contractors upon completion of Project construction. If the Architect, Inspector or any Trade Contractor have not filed reports or taken other actions required upon completion of Project construction, the CM will assist the District to secure compliance by the Architect, Inspector or a Trade Contractor with regard to such requirements. The CM will assist the District in completion of actions to be undertaken by the District upon completion of Project construction, including without limitation preparation of Notices of Completion for each Trade Contract.

ARTICLE 7: CM COMPENSATION

- 7.1 Contract Price for Basic Services. The Contract Price for the CM's performance of the Basic Services under this Agreement shall consist of the following components: (a) a fixed fee of **<insert written proposal amount> Dollars(\$ insert numeric amount)**. The determined contract amount is for the Pre-Construction, Construction, and Post-Construction Phases of the Basic Services ("the Pre-Construction/Construction/Post-Construction Price") commencing **MONTH XX, 20XX**. Billing will be in

<insert name>
 Agreement Dated:
 \$XXX,XXX
 Insert Accounting String
 Insert Project Name
 Construction Management Services
 MAAS Project #

accordance with a mutually agreed upon monthly percentage of the overall total. The CM Services Billing Rates provided as part of CM Proposal, shall be used in the event additional services are needed that are outside of the Basic Services defined herein. Pre-Construction Services shall commence at Article 3.3.

- 7.2 District Payments of the Contract Price. Invoices shall be paid within (30) days of presentation and approval of monthly invoice. Invoicing shall be submitted monthly for services performed in the previous (30) day billing period. Invoices submitted shall be accompanied by a detailed time summary for the amount being submitted for payment. Where a percent complete is called out on the invoice a detail summary for the equivalent shall also accompany the invoice. Failure to bill in a timely manner could result in rejection of your invoice at the District's discretion. District will make payment to CM of undisputed amounts of the Contract Price due for Basic Services, authorized Additional Services, General Condition costs and Allowable Reimbursable Expenses. No deductions shall be made or withheld from payments due CM hereunder on account of any penalty, assessment, liquidated damages or other amounts withheld by the District from payment to the Architect or any Trade Contractor. The District may, however, withhold or deduct from amounts otherwise due CM hereunder if CM shall fail 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 CM has fully cured its failure of performance, less costs, damages or losses sustained by the District as a result of such failure of performance of a material obligation hereunder.

ARTICLE 8: INSURANCE AND INDEMNITY

8.1 CM Insurance.

8.1.1 Workers Compensation and Employers Liability Insurance. CM shall purchase and maintain Workers' Compensation Insurance covering claims under workers' or workmen's compensation, disability benefit and other similar employee benefit acts under which CM may be liable. CM shall purchase and maintain Employer's Liability Insurance covering bodily injury (including death) by accident or disease to any employee which arises out of the employee's employment by CM. The Employer's Liability Insurance required of CM hereunder may be obtained by CM as a separate policy of insurance or as an additional coverage under the Workers' Compensation Insurance required to be obtained and maintained by CM hereunder.

8.1.2 Commercial General Liability and Property Insurance. CM shall purchase and maintain Commercial General Liability and Property Insurance as will protect CM from the types of claims set forth below which may arise out of or result from CM's services under this Agreement and for which CM may be legally responsible: (i) claims for damages because of bodily injury, sickness or disease or death of any person other than CM's employees; (ii) claims for damages insured by usual personal injury liability coverage which are sustained (a) by a person as a result of an offense directly or indirectly related to employment of such person by CM, or (b) by another person; (iii) claims for damages, other than to the Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom; (iv) claims for damages because of bodily injury, death of a person or property damages arising out of ownership, maintenance or use of a motor vehicle; (v) contractual liability insurance applicable to CM's obligations under this Agreement; and (vi) for completed operations. The insurance will include a separate additional insured endorsement naming the College of the Desert, its Board of Trustees, officers, agents and employees as additionally insured to CM's Commercial General Liability insurance policy.

8.1.3 Professional Liability Insurance. CM will procure and maintain professional liability insurance covering claims arising out of the performance of services under this Agreement.

8.1.4 Coverage Amounts. Minimum coverage amounts for policies of insurance obtained by the CM hereunder shall be as follows:

Insurance Policy	Minimum Coverage Amount
Workers' Compensation	In accordance with applicable law
Employer's Liability	One Million Dollars (\$1,000,000)
Commercial General Liability (including coverage for automobile liability and property casualty)	Two Million Dollars (\$2,000,000) per occurrence and Four Million Dollars (\$4,000,000) in the aggregate.
Professional Liability	One Million Dollars (\$1,000,000) per claim and Two Million Dollars (\$2,000,000) in the aggregate

8.1.5 Policy Endorsements; Evidence of Insurance. CM shall deliver Certificates of Insurance to the District Representative which evidence each of the policies of insurance in the minimum coverage amounts required hereunder. All policies of insurance required hereunder shall be issued by insurer(s) authorized to issue insurance by the State of California and to the reasonable satisfaction of the District. Coverages under each policy of insurance, by endorsement, shall provide that such policy will not be materially modified, canceled or allowed to expire without at least thirty (30) days advance written notice to the District.

8.1.6 Builders Risk Insurance. During the progress of construction of the Project, the District shall obtain and maintain one or more policies of Builder's Risk Completed Value Insurance covering all insurable work of the Project, including extended coverage and insurance against vandalism and malicious mischief, perils of fire, sprinkler leakage, acts of civil authorities, collapse and flood, to the full insurable value of the work of the Project and coverage for work of the Project whether in progress or completed. The District and CM waive all rights against the other, the Architect, and the Trade Contractors for damages caused by perils covered by insurance obtained under this provision. The policy(ies) of Builders Risk Insurance shall contain express waivers of subrogation by the insurer(s) issuing such policy(ies) to the extent of damages or losses covered thereunder. If the District requires the Trade Contractors to obtain a Builders Risk Insurance policy, each such policy(ies) will contain such waiver of subrogation.

8.2 District General Liability Insurance. District shall obtain and maintain General Liability Insurance covering District for claims of bodily injury, death or property damage arising out of the Project.

8.3 Indemnity.

8.3.1 CM Indemnity of District. CM shall indemnify, defend and hold harmless the Indemnified Parties from all claims, demands, liabilities, losses, expenses, costs, damages, actions and causes of action of any kind, type or nature arising out of this Agreement, including without limitation, claims for bodily injury, death, physical property damage (other than to the work of the Project itself and property damage covered by the Builders Risk Insurance) and demands, damages, expenses, losses, liabilities or other claims arising out of CM's services hereunder, but only to the proportion of CM's actual negligence. The Indemnified Parties are: the District, the District's Board of

Trustees and each individual member thereof, officers, and employees of the District. The CM's obligations hereunder shall survive termination of this Agreement and the completion of obligations hereunder, until barred by the applicable statute of limitations. The CM acknowledges and agrees that it shall not assert and expressly waives assertion of any defense or diminution of its obligation to defend, indemnify and hold harmless the Indemnified Parties based upon its actions or performance as an agent of the District.

- 8.3.2 District Indemnity of CM. The District shall indemnify, defend and hold harmless CM from all claims arising out of this Agreement, including without limitation, claims for bodily injury (including death) and physical property damage (other than to the work of the Project itself and property damage covered by the Builders Risk Insurance obtained by the District or the Trade Contractors) which arise out of the negligent or willful acts, work of the omissions or other conduct of the District. The District shall cause its consultants and contractors, including the Trade Contractors, to defend, indemnify and hold CM harmless for claims arising out of the work of such consultants and contractors. In addition, District shall cause its consultants and contractors, including the Trade Contractors to include CM as an additional named insured under their respective Commercial General Liability insurance policies.

ARTICLE 9: TERMINATION; SUSPENSION

- 9.1 Termination for Default. Either the District or CM may terminate this Agreement upon thirty (30) calendar days advance written notice to the other if there is a default by the other Party in its performance of a material obligation hereunder and such default in performance is not caused by the Party initiating the termination. Such termination shall be deemed effective the thirtieth (30th) day following the date of the written termination notice, unless during such thirty (30) day period, the Party receiving the written termination notice shall commence to cure it default(s) and diligently thereafter prosecute such cure to completion. In addition to the District's right to terminate this Agreement pursuant to the foregoing, the District may terminate this Agreement upon written notice to CM if: (a) CM becomes bankrupt or insolvent, which shall include without limitation, a general assignment for the benefit of creditors or the filing by CM or a third party of a petition to reorganize debts or for protection under any bankruptcy or similar law or if a trustee or receiver is appointed for CM or any of CM's property on account of CM's insolvency; or (b) if CM disregards applicable laws, codes, ordinances, rules or regulations. If District exercises the right of termination hereunder, the amount due CM, if any shall be based upon Basic Services and General Conditions Costs incurred or provided prior the effective date of the District's termination of this Agreement, reduced by losses, damages, or other costs sustained by the District arising out of the termination of this Agreement or the cause(s) for termination of this Agreement. Payment of the amount due, if any, shall be made by District only after completion of the Construction Phase of the Project. The foregoing notwithstanding, the CM shall remain responsible and liable to District for all other losses, damages or other costs sustained by District arising out of termination pursuant to the foregoing or otherwise arising out of CM's default hereunder, to the extent that such losses, damages or other costs exceed any amount due CM hereunder for Basic Services or General Conditions Costs.
- 9.2 District's Right to Suspend. The District may, in its discretion, suspend all or any part of the construction of the Project, work under a Trade Contract or CM's services hereunder; provided, however, that if the District shall suspend construction of the Project, work under a Trade Contract or CM's services hereunder for a period of sixty (60) consecutive days or more and such suspension is not caused by CM or the acts or omissions of CM, upon recession of such suspension, the Contract Price hereunder will be subject to adjustment to provide for actual costs and expenses incurred by CM as a direct result of the suspension and resumption of Project construction or construction under a Trade Contract or CM's services hereunder.

9.3 District's Termination of Agreement for Convenience. The District may, at any time, upon seven (7) calendar days advance written notice to CM terminate this Agreement for the District's convenience and without fault, neglect or default on the part of CM. In such event, the Agreement shall be deemed terminated seven (7) calendar days after the date of the District's written notice to CM or such other time as the District and CM may mutually agree upon. In the event of termination by the District hereunder, the Contract Price and General Conditions Costs due the CM shall be limited to the portion of the Contract Price earned as of the date of such termination and the portion of the General Conditions costs actually incurred as of the date of such termination.

9.4 CM Suspension of Services. If the District shall fail to make payment of the Contract Price when due CM hereunder, CM may, upon seven (7) calendar days advance written notice to the District, suspend further performance of services hereunder until payment in full is received. In such event, CM shall have no liability for any delays or additional costs of Project construction due to, or arising out of, such suspension.

ARTICLE 10: GENERAL

10.1 Marginal Headings; Captions. The titles of the various Paragraphs of the Agreement and the Articles of these Conditions are for convenience of reference only and are not intended to and in no way shall enlarge or diminish the rights or obligations of CM and District hereunder.

10.2 Cumulative Rights; No Waiver. Duties and obligations imposed by this Agreement and rights and obligations hereunder are in addition to and not in lieu of any imposed by or available at law or in equity. No action or failure to act by the District hereunder shall be deemed a waiver of any right or remedy afforded hereunder or acquiesce or approval of any breach or default by CM.

10.3 Notices.

Notices CM or District are required or desire to serve on the other shall be valid only if addressed to the other as set forth below or as modified by notice hereunder from time to time. Notices shall be effective only if by personal delivery requiring signature acknowledging receipt or by United States Mail, Certified, Return Receipt Requested, First Class, postage fully pre-paid. Notices effectuated by personal service shall be deemed effective as of delivery of such notices. Notices effectuated by United States Mail shall be deemed effective the third (3rd) working day after deposit in the United States Mail. Notices hereunder shall be addressed as follows:

If to District:

John Ramont
 Interim VP Administrative Services
 Desert Community College District
 43-500 Monterey Avenue
 Palm Desert, CA 92260

If to CM:

<insert Project Representative name>
 <Insert Title>
 <Insert Company Name>
 <insert Address>
 <insert City ST Zip>

10.4 Disputes.

10.4.1 Continuation of CM Services. Except in the event of the District's failure to make undisputed payment of the Contract Price due CM, notwithstanding any disputes between District and CM hereunder, CM shall continue to provide and perform services hereunder pending a subsequent resolution of such disputes.

10.4.2 Mandatory Mediation. All claims, disputes and other matters in controversy between the CM and the District arising out of or pertaining to this Agreement shall be submitted for resolution by non-binding mediation conducted under the auspices of the American Arbitration Association ("AAA") and the Construction Mediation Rules of the AAA in effect at the time that a Demand For Mediation is filed. Mediation proceedings hereunder shall be conducted in Riverside County. The District and CM shall each bear their respective costs and expenses associated with or arising out of any mediation proceeding commenced hereunder, except that the administrative costs of the mediation proceedings and the fees/costs of the mediator(s) shall be borne equally between the District and the CM. The commencement and completion of mediation proceedings pursuant to the foregoing is a condition precedent to either the District or the CM commencing judicial proceedings.

10.4.3 Arbitration. All claims, disputes or other matters in controversy between the CM and the District arising out of or pertaining to the Projects or this Agreement which are not fully resolved through the mandatory mediation set forth above shall be settled and resolved by binding arbitration conducted under the auspices of the AAA and the AAA Construction Industry Arbitration Rules in effect at the time of the filing of a Demand for Arbitration, as modified herein. The award rendered by the Arbitrator(s) ("Arbitration Award") shall be final and binding upon the District and the CM only if: (a) the Arbitration Award is in writing; and (b) is supported by law and substantial evidence pursuant to California Code of Civil Procedure §1296. Any Arbitration Award that does not include findings of fact and conclusions of law in conformity with California Code of Civil Procedure §1296 and Rule R-43 of the AAA Construction Industry Arbitration Rules shall be invalid and unenforceable. The District and the CM hereby expressly agree that the Court shall, subject to California Code of Civil Procedure §§1286.4 and 1296, vacate the Arbitration Award if, after review of the Arbitration Award, the Court determines either that the Arbitration Award is not supported by substantial evidence or that it is based on an error of law. If any claim or dispute is asserted by the Architect, Program Manager or others relating to the Project which arises in whole or in part out of this Agreement or the CM's services hereunder, the CM and District agree that any arbitration proceedings initiated between the CM and District hereunder shall be consolidated with any arbitration proceedings initiated in connection with such other claim or dispute.

10.4.4 Jurisdiction and Venue. Jurisdiction and venue for judicial proceedings relating to any matter arising out of or related to this Agreement in controversy shall be the Riverside County Superior Court, Indio Branch.

10.5 Severability. If any provision of this Agreement is deemed illegal, invalid unenforceable or void by any court of competent jurisdiction, such provision shall be deemed stricken and deleted herefrom, but all remaining provisions will remain and continue in full force and effect.

10.6 CM Accounting Records. CM shall maintain complete and accurate records of its personnel engaged in performing any service hereunder, personnel expenses and other General Conditions costs incurred in connection with performance under this Agreement. Records shall be maintained on the basis of generally accepted accounting principles applied consistently and shall be available for inspection or reproduction by the District upon reasonable request at any time during CM's performance hereunder.

Following completion of the Project and the Agreement or the termination of this Agreement, CM shall maintain accounting records for five (5) years or such longer period required by applicable law, code, rule or regulation, during which time such records shall be available to District or as otherwise required by law, code, rule or regulation for inspection or reproduction.

10.7 Definitions.

- 10.7.1 Trade Contract. A Contract for Construction awarded by the District to a Trade Contractor for the construction of a portion of the Project.
- 10.7.2 Trade Contractor. A Trade Contractor to the District under a Trade Contract awarded by the District for construction of the Project.
- 10.7.3 Design Documents. The Drawings, Specifications, calculations and other work product and Instruments of Service prepared by or on behalf of the Architect for the Project. Design Documents include surveys, soils reports and other documents prepared for the Project by a licensed Architect or registered Engineer, whether under contract to the Architect or District.
- 10.7.4 Architect. References to the Architect include the Architect retained by the District for the Project and its consultants retained to prepare or provide any portion of the Design Documents.
- 10.7.5 Submittals. Shop Drawings, Product Data or Samples prepared or provided by a Trade Contractor or a Subcontractor to a Trade Contractor or suppliers illustrating some portion of the work of the Project.
- 10.7.6 Site. The physical area for construction and activities relating to construction of the Project.
- 10.7.7 Project Budget. The Project Budget is the total costs allocated by the District for bidding and construction of the Project by the Trade Contractors, exclusive of fees and costs of the Architect, CM and other consultants of the District, Site acquisition costs and the costs of furniture, furnishing and/or equipment for the Project which are not included in the scope of the Trade Contracts. The Project Budget established by the District may be modified by the District from time-to-time.
- 10.7.8 Construction Cost Estimates. Construction Cost Estimates are estimates of the then current costs of labor, materials, equipment and services plus a reasonable allowance for the Trade Contractors' profit, overhead and administrative cost as necessary to complete construction of the Project in accordance with the Design Documents. Construction Cost Estimates shall include a reasonable allowance for contingencies relating to market conditions at the time of solicitation of Trade Contractor bids for the Project and Changes in the Work during construction of the Project; the allowance for contingency costs shall be consistent with the contingency established by the District in the Project Budget, if any.
- 10.7.9 Construction Costs. The costs of labor, materials, equipment (inclusive of the Trade Contractors' administrative costs/profit) necessary to complete construction of the Project.
- 10.7.10 Project Schedule. The Project Schedule is a written or graphic description prepared by the CM showing the various activities necessary to complete Project construction, and the sequencing of such activities. The Project Schedule shall incorporate each Trade Contractors' Construction Schedule.

10.7.11 Construction Schedule. A Construction Schedule is the written or graphic description of the scheduling, sequencing and interrelationships of activities necessary to complete a Trade Contract. Construction Schedules are prepared by the Trade Contractors for review by the CM and acceptance by the District and for incorporation into the Project Schedule by the CM.

10.7.12 Construction Contract Documents. The Contract Documents issued by or on behalf of the District under a Trade Contract for construction of a portion of the Project. Construction Contract Documents include all modifications issued by or on behalf of the District. Unless otherwise expressly stated, references to the Construction Contract Documents are referenced to all of the Contract Documents issued for all of the Trade Contracts awarded for Project construction.

10.7.13 Substantial Completion. Substantial Completion is when the Work of a Trade Contract has been completed and installed and the Work can be used or occupied for its intended purposes, subject only to minor corrections, repairs or modifications.

10.7.14 Final Completion. Final Completion is when all of the Work of a Trade Contract has been completed and installed (including items noted for correction, repair or modification upon Substantial Completion) and the Trade Contractor has completed all other obligations to be performed on its part under the Trade Contract.

10.7.15 Basic Services. The Basic Services performed by CM shall be the scope services and durations described in this Agreement or as mutually agreed to in the future to accommodate the needs of the project.

10.7.16 General Conditions and Reimbursables. General Conditions and Reimbursables are as defined in Exhibit "A" (attached).

10.8 Third Party Rights. Nothing in this Agreement shall operate to confer rights or benefits on persons or entities not party to this Agreement, and this Agreement shall not create any rights in persons not party to this Agreement, whether third party beneficiary, or otherwise.

10.9 Entire Agreement. This Agreement, the CM Construction Management Services Agreement and Fee Proposal constitute the entire agreement and understanding between the District and CM concerning the subject matter hereof, replacing and superseding all prior agreements or negotiations, whether written or verbal. No term or condition of this Agreement shall be modified or amended except by writing executed by the District and CM. Notwithstanding incorporation of the CM Proposal herein by reference, in the event of any conflict or inconsistency between the terms of this Agreement and any provision of the CM Proposal, the terms and provisions of this Agreement hereto shall govern and control.

IN WITNESS HEREOF, the Parties have executed this Agreement as of the date set forth above.

"District"
Desert Community College District
43-500 Monterey Ave
Palm Desert, CA 92260

"CM"
<insert company name>

By: _____
John Ramont Date
Interim VP Administrative Services

By: _____
<insert Authorized Representative name>
<insert title> Date

<insert name>
Agreement Dated:
\$XXX,XXX
Insert Accounting String
Insert Project Name
Construction Management Services
MAAS Project #

Date of Board Approval/Ratification

Employer ID Number

Affix Corporate Seal Here
(if applicable)

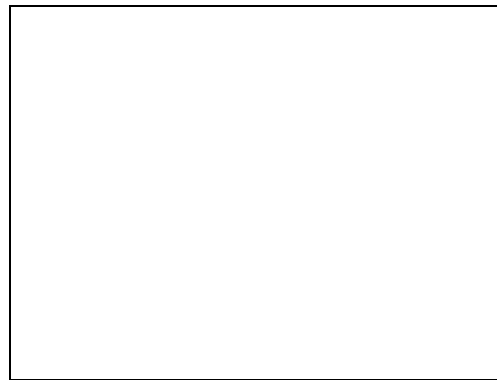


EXHIBIT "A"

NON LABOR GENERAL CONDITIONS AND REIMBURSABLES SCHEDULE

Reimbursables are to be billed at actual costs (marked up by 5%, with one exception, reprographic services) as represented by company purchase orders, requisitions, invoices and receipts, clearly identified as pertaining solely to the work of the consultant under this contract. Materials and equipment reimbursed by the District for field office use shall be used exclusively for Desert Community College District Projects.

- 1) **FIELD OFFICE SPACE LEASE COSTS**
 - a) Lease cost (Job Site trailer)
 - b) Job site Trailer large enough to accommodate the following:
 - (1) All on-site Staff (PM, PE, Superintendent, Admin etc.)
 - (2) Conference Room for a minimum 10 people
 - (3) IOR Lockable Office

- 2) **OFFICE EQUIPMENT RENTAL**
Copiers, Fax, Scanner Machine

- 3) **INSTALLATION / DELIVERY COSTS & LEASE COSTS - TRAILER & SITE**
 - a) Electrical, Trailer (landline) Telephone voice-data, temporary toilets, Projects fencing security-locks

- 4) **MONTHLY SERVICE COSTS**
 - a) Trailer telephone expense (voice, internet)
 - b) Trailer cleaning
 - c) Drinking Water (on site CM personnel only)
 - d) Electrical charges - power to trailer only
 - e) Temporary toilets - service

- 5) **MONTHLY USAGE FEES - TELEPHONE, INTERNET**

- 6) **POSTAGE / OVERNIGHT DELIVERY**
 - a) Projects Documents

Note: Overnight charges associated with employee timesheets, expense reports, and other corporate communications are not eligible for reimbursement.

- 7) **OFFICE SUPPLIES**
 - a) Reprographic paper, Plotter paper, manila folders, 3-ring binders related to materials to be retained by the District at Projects close-out.

- 8) **SAFETY SUPPLIES**
Construction Manager safety inspections are NOT reimbursable.

- 9) **REPROGRAPHIC SERVICES (No mark-up allowed)**
a) Reprographic costs associated with the printing of bid documents (IB Reprographics)

- 10) **OTHER JOB RELATED EXPENSES**
a) Subject to advanced written approval by the District
b) Home Office IT support NOT Reimbursable

Computers/software/printers/vehicles and associated costs to be incorporated in hourly rate

Note: All of the above, if purchased, and reimbursed, becomes the property of the District. The above supplies are then available for transfer from one project to another. If the reimbursable item (within an approved category listed above) is not specifically identified in the original budget (Non-Labor – General Conditions and Reimbursables), and the item exceeds \$500, then pre-approval (in writing) of the District or Authorized Representative is required.