

Agreement

between

Round Valley Unified School District

and

_____ Construction Company

for

Preconstruction Services

for

the Gymnasium Project

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**ROUND VALLEY UNIFIED SCHOOL DISTRICT
PRECONSTRUCTION SERVICES AGREEMENT**

This Agreement for Preconstruction Services ("Agreement") is made as of _____ 2017, between the Round Valley Unified School District (the "District") and _____ Construction Company ("Consultant"), a California corporation and general contractor licensed under the laws of the State of California.

This Agreement consists of the following documents:

- (a) This Preconstruction Services Agreement.
- (b) Consultant's hourly rate schedule attached as Exhibit "A."
- (c) The description of preconstruction services attached as Exhibit "B."
- (d) Allowable reimbursable costs attached as Exhibit "C."
- (e) Department of Justice ("DOJ") Certification attached as Exhibit "D"

SECTION I RECITALS

A. The District desires to provide for construction of campus improvements at Round Valley High School pursuant to California Education Code sections 17406 *et seq.* (the "Project"). Proceeding pursuant to section 17406 will require the District to enter into site and facilities leases following the approval of the construction documents by the California Department of General Services, Division of the State Architect ("DSA").

B. Consultant may enter into site and facilities lease agreements with the District, contingent upon (1) the District receiving approval from DSA of the construction documents for the Project, (2) the Consultant's fulfillment of the obligations as described in Exhibit "B", (3) the District and Consultant reaching an agreement concerning the lease agreements, including the lease payments and other terms and conditions of the lease agreements, and (4) Board approval of all such agreements. The approval of this preconstruction agreement does not guarantee that the District will enter into any further agreements with Consultant.

C. The District and Consultant desire to enter into an agreement for Consultant to provide certain preconstruction services to the District on the terms set forth below.

SECTION II SCOPE OF SERVICES

The Scope of Services subject to this Agreement and to be performed by Consultant for the Project (the "Preconstruction Services") are described in Exhibit "B", attached hereto. Any changes in the scope of the Preconstruction Services must be approved in advance, in writing, by the District. Consultant is not authorized to proceed with any physical work or construction tasks on the Project. Investigatory or exploratory work to support design is not construction

SECTION III GENERAL CONDITIONS

A. Consultant's Duties and Status:

Consultant covenants with the District to furnish Consultant's best skill and judgment and to cooperate with any other consultants and any design professionals employed by the District in

1 connection with the Project. Consultant agrees to perform the Preconstruction Services in the best way
2 and in the most expeditious and economical manner consistent with the interests of the District.
3

4 Consultant acknowledges that it is an independent contractor and not an agent or employee of
5 the District.
6

7 B. Term, Progress and Completion:
8

9 Time is of the essence of this Agreement. The term of this Agreement shall begin on the date
10 set forth in this Agreement and shall expire upon completion of the Preconstruction Services or when
11 terminated in accordance with this Agreement. However, as set forth in Exhibit "B" hereto, and
12 assuming the District and Consultant enter into the lease leaseback agreements, certain obligations of
13 Consultant will extend to and apply during the construction phase. Consultant shall promptly
14 commence performance of the Preconstruction Services upon execution of this Agreement and shall
15 diligently pursue performance of the Preconstruction Services until completion.
16

17 C. Contract Price:
18

19 Compensation for Basic Services: The District shall compensate the Consultant for performing the
20 Preconstruction Services as follows:
21

22 1. **A fee not to exceed Twenty Thousand Dollars (\$20,000) commencing on April 4,**
23 **2017, through approx.. April 4, 2017.**
24

25 2. Included in the above fee is an expense allowance, which shall be provided in the amount of
26 \$1,500 (one thousand five hundred dollars and no cents.) Allowable reimbursable expenses are
27 indicated in Exhibit "C." Reimbursable expenses will be billed to the District at direct cost with no
28 markup. Consultant will not exceed the reimbursable expenses allowance without prior written
29 authorization
30

31 D. Payment:
32

33 1. Payment by the District to the Consultant for the cost of providing Preconstruction
34 Services will be based on monthly invoices, which will set forth the hours actually worked
35 during the billing period. The billing rates indicated in Exhibit "A" will be multiplied by the
36 actual hours for each position to arrive at the total fee for each month.
37

38 2. Consultant shall submit an invoice monthly to the District for the fee and reimbursable
39 expenses incurred for the billing period. The District shall make payment to Consultant of one
40 hundred percent (100%) of the approved invoiced amount within thirty (30) calendar days of the
41 District's receipt of the invoice.
42

43 3. All of Consultant's accounting records shall be maintained on a generally accepted
44 accounting basis. All of Consultant's accounting records, invoices and supporting
45 documentation shall be clearly identified and readily accessible. The District shall have the
46 right to examine and copy such books and records at all reasonable times. Consultant shall
47 permit the District to examine and audit those books and records, shall permit the District to
48 make copies of those books and records, and shall permit the District to inspect all work data,
49 documents, proceedings and activities related to this Agreement for a period of three (3) years
50 from the date of final payment under this Agreement. All accounting records shall provide an
51 understandable breakdown of costs charged to this Agreement.
52

53 E. Prevailing Wages:

Pursuant to California Labor Code section 1720 *et seq.*, the Project, including the Preconstruction Services, is a public works project. Consultant shall pay, and shall cause all sub-consultants and/or subcontractors of every tier to pay, not less than the specified prevailing wage rates to all workers employed at the school site(s) to perform preconstruction work, if any, under this Agreement as required by the Labor Code.

F. Right to Withhold Funds:

The District may withhold the whole or a part of any payment under Paragraph D to such extent as may be necessary to protect the District from loss, including costs and attorneys' fees, which may arise for reasons including, but not limited to, the following: 1) defective or deficient work not remedied; 2) failure of Consultant to make payments properly to its employees or sub-consultants or subcontractors; 3) reasonable doubt that the Preconstruction Services can be completed for the then-unpaid balance of the contract price; 4) failure to achieve sufficient progress with the Preconstruction Services such that Consultant is unlikely to achieve timely completion; or 5) failure of Consultant to provide certificates of insurance, indicating compliance with Paragraph J, below.

G. Supervision of Preconstruction Services:

Consultant shall supervise and direct its Preconstruction Services using its best skill and attention. It shall be solely responsible for coordinating all portions of the Preconstruction Services. Consultant shall be responsible to the District for the acts and omissions of its employees, sub-consultants, and their agents and employees, and other persons performing any of the Preconstruction Services under a contract with Consultant. Consultant shall at all times enforce strict discipline and good order among its employees, and shall not employ on the Project any unfit person or anyone not skilled in the task assigned to him or her.

H. Compliance with Laws and Regulations:

At its sole cost and expense, Consultant shall give all notices and comply with all laws, ordinances, rules, regulations, and lawful orders of any public authority bearing on the performance of the Preconstruction Services, pay all local, state, and federal taxes; and pay all benefits, insurance, taxes, and contributions for Social Security and Unemployment which are measured by wages, salaries, or other remunerations paid to Consultant's employees. Upon the District's request, Consultant shall furnish evidence satisfactory to the District that any or all of the foregoing obligations have been fulfilled.

I. Changes/Extra Work:

The District, without invalidating this Agreement, may order changes in the Preconstruction Services within the general scope thereof, consisting of additions, deletions, or other revisions. The contract price and the time for performance of the Preconstruction Services shall be adjusted accordingly. All such changes in the Preconstruction Services, including changes in the contract price and the time for performance of the Preconstruction Services, shall be authorized only by written change order, signed by the District. If Consultant claims that performance of any work entitles it to additional compensation or to an extension of the time for performance of the Preconstruction Services, Consultant shall provide written notice to the District of any such claim prior to undertaking such work. If the District refuses to issue a change order for such work, Consultant shall perform that work and shall submit a complete and specific claim for additional compensation or extension of time for performance within ten (10) days after such work is performed. No claim, dispute or controversy shall interfere with the progress or performance of the Preconstruction Services, and Consultant shall proceed with the Preconstruction Services as directed by the District.

1
2 J. Insurance:
3

4 Consultant shall procure and maintain insurance on all of its operations during the progress of
5 the Preconstruction Services, with insurance companies admitted in California, on forms acceptable to
6 the District, for the following minimum insurance coverages:
7

8 1. Workers' compensation insurance and occupational disease insurance as required by
9 California law and employer's liability insurance with minimum limits of \$1,000,000 covering all
10 work places involved in this Agreement.
11

12 2. Comprehensive general liability insurance on an "occurrence basis," including
13 Consultant's Contingent coverage, with limits of not less than as indicated as follows:
14

15 i. Bodily Injury Liability - \$2,000,000 each occurrence; Property Damage
16 Liability - \$2,000,000 each occurrence; \$4,000,000 annual aggregate;
17
18

19 3. The insurance shall cover all operations of Consultant, including but not limited to the
20 following: (1) premises, operations, and mobile equipment liability; (2) completed operations
21 and products liability; (3) contractual liability insuring the obligations assumed by Consultant in
22 this Agreement; (4) Independent Consultant's Contingent coverage; (5) explosion, collapse, and
23 underground property damage; (6) broad form property damage liability endorsement
24 (including completed operations); and (7) personal injury liability endorsement. In addition,
25 Consultant shall provide insurance coverage in the above limits for "Any Autos" used in the
26 course of the work.
27

28 4. All policies shall name the District as an additional insured during the Project and shall
29 provide that such policy is primary insurance. Consultant shall provide District with a copy of
30 the endorsement for each policy prior to commencing any work.
31

32 5. Consultant waives all rights of subrogation against the District for damages covered by
33 any applicable insurance
34

35 6. Certificates of insurance, or other evidence of insurance as requested by the District,
36 shall be furnished by Consultant to the District before any work is commenced hereunder by
37 Consultant. The certificates shall provide that there will be no cancellation, reduction or
38 modification of coverage without thirty (30) days' prior written notice to the District. The
39 certificates shall be accompanied by the waiver of subrogation as well as the additional insured
40 endorsement language.
41

42 K. Default By Consultant:
43

44 If Consultant at any time or in any respect does any of the following:
45

- 46 1. fails to properly and/or diligently prosecute the Preconstruction Services;
47
48 2. is adjudicated a bankrupt;
49
50 3. files an arrangement proceeding, or commits any act of insolvency, or makes an assignment
51 for the benefit of creditors without the District's written consent;
52
53 4. fails to make prompt payment to persons furnishing labor, equipment, or materials;

5. fails to cause the effect of any suit or lien to be removed within ten (10) days after written demand; or

6. otherwise fails to perform fully any and all of the agreements herein contained,

then Consultant shall be in default. If Consultant fails to cure the default within seventy-two (72) hours after written notice thereof, the District may, at its sole option, (1) provide any such labor, equipment, and materials as may be necessary and deduct the cost thereof from any money then due or thereafter to become due to Consultant under this Agreement; or (2) terminate Consultant's right to proceed with the Preconstruction Services. In the event the District elects to terminate, the District shall have the right to, for the purpose of completing the Preconstruction Services, take possession of any documents or other materials of Consultant, and may employ any other person or persons to finish the Preconstruction Services and provide the materials therefore. In case of such default termination, Consultant shall not be entitled to receive any further payment under this Agreement until the Preconstruction Services are completely finished. At that time, the District shall deduct from any money due, expenses incurred by the District for attorneys' fees and for any damages sustained by the District by reason of Consultant's default, plus ten percent (10%) on any and all such expenses as allowed by law. If said expenses and damages incurred by the District in finishing the Preconstruction Services exceed the unpaid balance of this Agreement, then Consultant shall promptly pay to the District the amount by which such expense exceeds such unpaid balance.

L. Termination for Convenience:

The District reserves the absolute right to terminate this Agreement without cause by providing ten (10) days written notice to the Consultant. In the event of termination without cause, Consultant shall be entitled to payment for work satisfactorily performed up to the date of termination. Consultant shall not be entitled to any claim or lien against the District for any additional compensation or damages in the event of such termination and payment. In addition, the District's right to withhold funds under Section III Paragraph F shall be applicable in the event of a termination for convenience.

If this Agreement is terminated by the District for default, and it is later determined that the default termination was wrongful, such termination automatically shall be converted to and treated as a termination for convenience under this section and Consultant shall be entitled to receive only the amounts payable hereunder in the event of a termination for convenience.

M. Indemnity:

1. To the fullest extent permitted by law, Consultant shall, with respect to all work which is covered by or incidental to this Agreement, defend, indemnify, and hold harmless the District and all of its officials, agents, representatives and employees (collectively "District"), from and against any and all liens and claims asserted by firms or individuals claiming through Consultant, and claims, liability, loss, damage, costs, or expenses, including reasonable attorneys' fees, expert's fees, awards, fines, or judgments, relating to the death or bodily injury to persons, injury to property, or other loss, damage, or expense to the extent that any of the above are contributed to or caused by the asserted willful or negligent acts, errors or omissions of Consultant or its agents. Consultant's duty to defend as described herein shall not include the duty to provide a defense but shall include paying District for all defense costs incurred by District for the claims described herein.

2. Consultant and the District each agree to promptly serve notice on the other party of any claims arising hereunder, and shall cooperate in the defense of any such claims.

1 3. The acceptance by the District of any certificate of insurance providing for coverage of
2 any kind shall in no event be deemed a waiver of any of these indemnity provisions, and
3 Consultant's indemnity obligations shall not be limited by the insurance requirements set forth
4 in this Agreement.
5

6 N. Assignment of Contract:
7

8 Consultant shall not assign or transfer Consultant's rights or obligations under this Agreement,
9 without the prior written consent of the District, which may be provided or withheld in the District's
10 sole discretion. Should the District consent to such assignment, such consent shall not constitute a
11 waiver of any of the restrictions of this section, and the same shall apply to any successive assignment.
12 The District may assign or transfer the whole or any part of this Agreement, and the District's rights
13 hereunder, to any corporation, individual, or partnership.
14

15 O. Notices:
16

17 All notices required or permitted under this Agreement shall be in writing and may be
18 accomplished by personal delivery, first-class regular mail of the United States Postal Service, Federal
19 Express or similar next day delivery, sent to the party at the address shown in this Agreement, or by
20 facsimile sent to the facsimile number shown in this Agreement with confirmation of successful
21 transmission. Any such written notice shall be effective upon the date of receipt.
22

23 P. References:
24

25 Words used in this Agreement in the present tense include the future as well as the present;
26 words used in the masculine gender include the feminine and neuter; and the singular number includes
27 the plural and the plural the singular.
28

29 Q. Acceptance:
30

31 This Agreement is intended by the parties as a final expression of their agreement, and
32 supersedes any prior oral or written statements, and is intended also as a complete and exclusive
33 statement of the terms of their agreement. No revisions to this Agreement shall be valid unless
34 accepted in writing and signed by an authorized representative of the District. No condition stated by
35 Consultant in accepting this Agreement shall be binding upon the District unless expressly agreed to in
36 writing by the District. This Agreement may be amended only by a written instrument signed by
37 authorized representatives of the District and Consultant.
38

39 R. Waiver Savings Clause:
40

41 Waiver by the District of any breach hereof by Consultant shall not constitute a waiver of any
42 subsequent breach of the same or any other provision. If any provision of this Agreement, or any part
43 thereof, shall be held to be invalid under any applicable federal, state, municipal, or other law, ruling, or
44 regulation, then such provision shall remain in effect to the extent permitted, and the remaining
45 provisions of this Agreement shall remain in full force and effect.
46

47 S. Dispute Resolution:
48

49 1. Attempts to Informally Resolve Claims. Initially, and promptly after identification of a
50 claim, the parties shall meet to review and consider the claim. This meeting shall occur at the
51 earliest practicable date and shall be for the express purposes of: (1) exchanging and reviewing
52 pertinent documents and information relating to the matters and issues in dispute, (2) candidly

1 discussing each party's position, and (3) endeavoring to reach a consensus with regard to a
2 reasonable resolution of the claim.
3

4 2. Litigation. If mediation does not resolve the dispute, the party making the claim may
5 then resort to litigation, subject to first complying with all remedies and claim procedures
6 required by law. This Agreement shall be governed and construed in accordance with the laws
7 of the State of California. All disputes between the District and Consultant shall be brought in
8 the Superior Court of the County where the District's administrative office is located, and no
9 other place.
10

11 **SECTION IV ADDITIONAL PROVISIONS**

12

13 **A. Conflicts of Interest:**

14 The Consultant affirms that, to the best of its knowledge, there exists no actual or potential
15 conflict between family, business, or financial interests of the Consultant and performance of its Services
16 under this Agreement. In the event of change in either interests or Services under this Agreement, the
17 Consultant affirms that it will promptly raise with the District any question regarding possible conflict
18 of interest which may arise as a result of such change.
19

20 **B. Fingerprinting:**

21

22 1. Education Code section 45125.1 shall apply to this Agreement. The District
23 administrator initiating or responsible for this Agreement shall, pursuant to Section 45125.1
24 and District policy and guidelines, determine whether fingerprinting is required of Consultant
25 or its employees. Once such determination is made, the administrator shall verify his/her
26 determination on the signature page of this Agreement. If the Administrator concludes
27 fingerprinting is required, the following shall apply:
28

29 i. The Consultant shall, prior to commencement of work pursuant to this
30 Agreement, require any person affiliated with Consultant (or, in appropriate cases, him
31 or herself) to be fingerprinted by the Department of Justice if that person will have
32 unsupervised access to occupied school campuses where children will be present. This
33 provision extends to all consultants and/or subconsultants hired by Consultant that
34 will have unsupervised access to occupied school campuses. Upon verification from DOJ
35 that those persons fingerprinted have no record of a serious or violent felony as defined
36 in Section 45122.1 of the California Education Code, Consultant will so certify by
37 signing and submitting the Consultant Certification included herein as Exhibit "C." In
38 addition, Consultant shall submit the names of those persons who have received
39 clearance and are authorized to have unsupervised access to school campuses on a form
40 as indicated in Exhibit "C." Consultant must contact the District regarding appropriate
41 access for those persons not cleared by DOJ for reasons other than a violent or serious
42 felony. In which case, Consultant must make arrangements with District for
43 appropriate access. No person with a violent or serious felony as reported by DOJ may
44 have access to the school campuses or provide any Services under this Agreement.
45

46 ii. Failure to comply with this provision shall constitute grounds for termination
47 of this Agreement.
48

49 **C. Third Party Beneficiaries:**

50 The District does not assume any liability, duty or obligation to Consultant's subconsultants or
51 their agents and employees by execution or performance of this Agreement, and nothing in this
52

1 Agreement shall create any contractual relationship between District and any subconsultants, or their
2 agents and employees, employed by Consultant. No subconsultants, agents, employees or other parties
3 are third party beneficiaries of this Agreement. Consultant shall be responsible to District for the acts
4 and omissions of its employees, subconsultants, and their agents and employees, and other persons
5 performing any of the work under this Agreement.
6

7
8 _____ **Construction Company**

Round Valley Unified School District

9
10 _____
11 Consultant's Signature

_____ District Signature

12
13 _____
14 Print Name

_____ Print Name

15
16 Its: _____

Its: Superintendent

17
18 California Contractors License No. _____

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EXHIBIT “A”
Consultant’s Hourly Rate Schedule

| Classification | Rates |
|--------------------------------------|--------------|
| Chief Estimator | |
| Senior Estimator | |
| Estimator | |
| Cost Engineer | |
| Estimating Assistant | |
| Modeling Engineer | |
| Constructability Manager | |
| Project Executive | |
| Senior Project Manager | |
| Project Manager | |
| Project Engineer | |
| Project Coordinator/Assistant | |
| General Superintendent | |

1 **EXHIBIT "B"**

2
3 **SCOPE OF SERVICES**

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6 **COLLABORATION**

7
8 Consultant, with Architect, shall jointly schedule and attend regular meetings with the District
9 and the District's consultants. Consultant shall collaborate with Architect, the District and the
10 District's consultants regarding site use and improvements, and the selection of materials, building
11 systems and equipment. Consultant shall provide on-going review and recommendations on
12 construction feasibility; actions designed to minimize adverse effects of labor or material shortages; time
13 requirements for procurement, installation and construction completion; and factors related to
14 construction cost, including estimates of alternative designs or materials, preliminary budgets, and
15 possible economies. Consultant also shall participate in developing a construction plan to address
16 project risk and minimize disruptions to the District's educational programs at the Project site.
17

18
19 **PRELIMINARY PROJECT SCHEDULE**

20
21 Consultant shall prepare and update a preliminary Project schedule for the District's review and
22 approval. The preliminary Project schedule shall be for each construction phase of the Project. The
23 schedule shall provide for expeditious and practicable execution of the Project. As design proceeds, the
24 preliminary Project schedule shall be updated as needed to indicate proposed activity sequences and
25 durations, milestone dates for receipt and approval of pertinent information, submittal of the final
26 Project cost proposal for each phase (based on the factors listed in the District's request for
27 qualifications for the Project), preparation and processing of shop drawings and samples, delivery of
28 materials or equipment requiring long-lead time procurement, and proposed date of final completion for
29 each phase of the Project.
30

31
32 **PRELIMINARY COST ESTIMATES AND VALUE ENGINEERING**

33
34 A. Consultant shall provide estimating services as needed throughout development of the
35 construction documents. Depending on the stage of document development, the scope and nature of the
36 estimating services may change. Consultant will be expected to provide estimating of portions of the
37 work, systems being considered, details as they are developed, and other estimating exercises that the
38 District, Architect and Consultant deem advisable.
39

40 B. When construction documents are submitted to DSA for approval, Consultant shall prepare a detailed
41 estimate based upon the design drawings and specifications received from Architect, and shall set forth any
42 assumptions or interpretations that Consultant used in making the estimate.
43

44 C. During the course of providing its Preconstruction Services, Consultant shall continuously be
45 pursuing opportunities to create additional value by identifying options to reduce capital or life cycle
46 cost, improve constructability and functionality, or provide operational flexibility, while satisfying the
47 District's programmatic needs. Consultant shall develop value engineering proposals ("VEP") for
48 District's and Architect's approval for alternative systems, means, methods, finishes, equipment and the
49 like that satisfy the general design criteria of the Project, but which result in savings of time or money
50 in constructing or operating and maintaining the Project. Each VEP shall describe the proposed change,
51 identify all aspects of the Project directly or indirectly affected by the change, specify the cost or time
52 savings to be achieved if the VEP is accepted, and detail any anticipated effect on the Project's service
53 life, economy of operation, ease of maintenance, appearance, design or safety standards.
54

1 **CONSTRUCTABILITY REVIEW OF CONSTRUCTION DOCUMENTS**

2
3 A. During the course of development of the plans and specifications, Consultant shall continually
4 review the design and construction documents for clarity, consistency, constructability and coordination
5 among the design disciplines' drawings, the Project phases, and the construction trades, and shall
6 collaborate with Architect and the District in developing solutions to any identified issues.
7

8 B. No later than six (2) weeks after submission of construction documents to DSA for approval,
9 Consultant shall commence a formal, documented constructability review. The formal constructability
10 review shall be completed within four (4) weeks so that the comments therein can be evaluated and
11 incorporated as appropriate prior to DSA backcheck. The purpose of all of Consultant's constructability
12 reviews, including those before submission of the construction documents to DSA for approval and the
13 formal constructability review(s), is to determine that the design comprises complete, accurate and fully
14 coordinated drawings and specifications for construction, and thereby reduce the risk of disruption,
15 delay, change orders and potential claims. Consultant will focus on accuracy, completeness, sequencing
16 and coordination. Consultant's reviews also will seek out alternative construction materials and systems
17 that may result in a cost or time savings to the District. The results of the reviews shall be provided in
18 writing and as notations on the construction documents. Nothing in the contract documents shall
19 relieve the Architect and the other design professionals from their obligation to perform their services
20 and design the Project in accordance with the terms of their respective contracts and the applicable
21 standard of care.
22

23 C. Consultant shall engage those subconsultants and/or subcontractors it deems necessary to
24 participate in the constructability reviews. However, regardless of whether Consultant engages
25 subconsultants and/or subcontractors, Consultant shall remain fully responsible for the constructability
26 reviews.
27

28
29 **SUBCONTRACTORS AND SUPPLIERS**

30
31 A. Consultant shall develop a bidding approach and schedule to obtain competitive bids from
32 potential subcontractors and suppliers.
33

34 B. Consultant shall seek to develop subcontractor interest in the Project and shall collaborate with
35 the District and Architect to develop a list of possible subcontractors, including suppliers who are to
36 furnish materials or equipment fabricated to a special design, from whom proposals will be requested for
37 each principal portion of the work, in each phase of the work. Before proposing any subcontractor or
38 supplier, Consultant shall satisfy itself that the subcontractor or supplier has the financial resources,
39 qualifications, and experience to complete the work for which it is proposed and is available to do so.
40 Consultant, Architect and the District will promptly review the qualification and decide whether to add
41 the proposed subcontractor to the list. The "pre-qualification" of proposed subcontractors or suppliers
42 shall not waive the right of the District or Architect later to object to or reject any proposed
43 subcontractor or supplier. If Consultant intends to perform a particular scope of work using its own
44 forces, Consultant shall set forth its estimated cost and budget for that scope of work, including all
45 associated labor, equipment and material costs. Consultant's estimate and budget for any work to be
46 performed by Consultant's own forces are subject to District approval. District reserves the right to
47 require said work to be bid.
48

49 C. Consultant shall prepare bid packages for the complete scope of work for all trades that will be
50 subcontracted.
51

52 D. At Consultant's discretion and with the approval of the District, subcontractors for key trades
53 may be selected prior to bid on a negotiated cost basis in order to involve them in the review and
54 development of the plans and specifications.

1
2 E. Consultant shall provide a written bid or proposal evaluation to the District for each of the
3 major building components and systems. Consultant's evaluation shall include a summary of the bids
4 received and identify the subcontract bidder(s) that Consultant recommends.
5
6

7 **LONG-LEAD TIME ITEMS**

8

9 Consultant shall recommend to the District and Architect a schedule for procurement of any
10 long-lead time items which will constitute part of the work as required to meet the Project schedule. If
11 such long-lead time items are procured by the District, they shall be procured on terms and conditions
12 acceptable to Consultant. Upon the District and Consultant entering into the anticipated lease
13 agreements, all contracts for such items shall be assigned by the District to Consultant, who shall accept
14 responsibility for such items as if procured by Consultant. Consultant shall expedite the delivery of
15 long-lead time items to ensure delivery and installation to meet the scheduled completion date.
16
17

18 **EXTENT OF RESPONSIBILITY**

19

20 The recommendations and advice of Consultant concerning design alternatives shall be subject
21 to the review and approval of the District and the District's professional consultants. It is not
22 Consultant's responsibility to ascertain that the drawings and specifications are in accordance with
23 applicable laws, statutes, ordinances, building codes, rules and regulations. However, if Consultant
24 recognizes, or should reasonably have recognized, that portions of the drawings and specifications are at
25 variance therewith, Consultant shall promptly notify Architect and the District in writing.
26 Notwithstanding the foregoing, Consultant represents that during the preconstruction phase and before
27 submitting the estimate for the final project cost, it will carefully examine the site at which the work will
28 be performed and all of the documents included in the contract documents; perform all reasonable
29 investigations essential to a full understanding of the difficulties that may be encountered in performing
30 the work; be familiar with the terms and conditions thereof; and acquaint itself through reasonable
31 discovery with the conditions under which the work is to be performed, including, without limitation,
32 applicable laws, codes and other restrictions (including any restrictions identified by the District and
33 that are related to the District's education programs and/or requirements at the Project site), local labor
34 conditions, local weather patterns, restriction in access to and from the Project site, prior work
35 performed by others on the Project, and obstructions and other conditions relevant to the work, the site
36 of the work and its surroundings. With the exception of subsurface conditions or other conditions
37 which qualify under the differing site condition clause, if any, in the lease agreement, Consultant
38 expressly assumes the risk of any variance between the actual conditions, either discovered or
39 discoverable through reasonable investigation in the performance of contractual obligations under the
40 contract documents, and the conditions shown or represented in the contract documents. Consultant
41 will complete the Preconstruction Services for the compensation stated in this Agreement, and assumes
42 full and complete responsibility for all Services required under this Agreement.
43
44

45 **FINAL PROJECT COST PROPOSAL**

46

47 A. When the drawings and specifications for each phase are sufficiently complete, Consultant shall
48 propose a final Project cost for the phase, which shall be the sum of the allowable general conditions at
49 actual cost, the cost of all subcontract bids, the cost of any actual construction work performed by
50 Consultant's own forces, Consultant's fee, payment bond, builder's risk insurance, and contingency fund.
51

52 B. The "general conditions" portion of each phase's final Project cost includes all general and
53 administrative expenses for the Project, including foreseeable delays and interferences which Consultant
54 may experience in the phase of the Project, for the duration of the schedule which is attached to each

1 phase's final Project cost proposal. The allowable general conditions are as set forth in Exhibit "D."
2 Each phase's final Project cost proposal shall include in its assumptions and clarifications the number of
3 "weather days" that are included as an allowance in the proposed schedule. Weather impacts will only
4 constitute excusable delays to the extent they exceed the allowance agreed upon in the lease agreement
5 and otherwise meet the criteria for an excusable delay, as described in the lease agreement.
6
7

8 **BASIS OF FINAL PROJECT COST FOR EACH PROJECT PHASE**

9

10 A. Consultant shall include with each phase's final Project cost proposal a written statement of its
11 basis, which shall include:

- 12 1. A list of the drawings and specifications, including all addenda, that were used in
13 preparation of the phase's final Project cost;
14
15
- 16 2. The phase's proposed final Project cost, including a statement of the estimated cost and
17 a schedule of values organized by trade categories, allowances, contingencies permitted by this
18 Agreement, general conditions, self-performed work, and other items and the fee that comprise
19 the final Project cost for the phase. Each phase's proposed final Project cost shall include those
20 taxes which are enacted at the time the phase's final Project cost is proposed;
21
- 22 3. A list of the clarifications and assumptions made by Consultant in preparing the final
23 Project cost proposal for the phase to supplement the information contained in the drawings and
24 specifications;
25
- 26 4. The date of commencement and the date of completion for the phase, upon which the
27 phase's proposed final Project cost is based, and a schedule of the construction documents'
28 issuance dates upon which the date of completion is based;
29
- 30 5. A list of allowances and a statement of their basis; and
31
- 32 6. A detailed budget and breakdown of all general conditions and jobsite management
33 expenses included within the phase's final Project cost for the duration identified in response to
34 the preceding paragraph, and subject to any limitations described in this Preconstruction
35 Agreement or the anticipated lease agreement.
36

37 B. Consultant shall meet with the District and Architect to review each phase's final Project cost
38 proposal and the written statement of its basis. In the event that the District or Architect discover any
39 inconsistencies or inaccuracies in the information presented, they shall promptly notify Consultant, who
40 shall make appropriate adjustments to the phase's final Project cost proposal or its basis, or both.
41

42 C. The District shall authorize and cause Architect to revise the drawings and specifications to the
43 extent necessary to reflect the agreed-upon assumptions and clarifications that form the basis of each
44 phase's final Project cost, as accepted by the District. Such revised drawings and specifications shall be
45 furnished to Consultant in accordance with schedules agreed to by the District, Architect and
46 Consultant. Consultant shall promptly notify Architect and the District if such revised drawings and
47 specifications are inconsistent with the agreed-upon assumptions and clarifications.

1 **Exhibit C**

2
3 **Allowable Reimbursable Expenses**

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6 The Consultant will be reimbursed for reasonable expenses incurred in conjunction with the
7 Preconstruction Services. The items allowable for reimbursement are as follows:

- 8
9 1. Cost of printing and distributing documents requested by District.
10
11 2. Cost of postage, UPS, Federal Express, and other deliveries.
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13 3. Cost of other items as required, with prior written approval from District.
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Exhibit D

CONSULTANT DOJ Certification

I, _____, president of _____ Construction Company certify that, pursuant to Education Code Section 45125.1 and Section IV Paragraph B of this Agreement, this Consultant has conducted the required criminal background check(s) of all persons who will be providing services to the Round Valley Unified School District on behalf of this business Consultant, and that none of those persons have been reported by the Department of Justice as having been convicted of a serious or violent felony as specified in Penal Code Sections 667.5(c) and/or 1192.7(c). I understand that this Certification is not to be signed and submitted until I have received clearance from DOJ regarding those persons named. As further required by Education Code 45125.1 is a list of names of the employees or agents of Consultant who will be providing services to the School District who are required to be fingerprinted as provided in the Agreement. I agree to keep this list current and to notify the School District of any addition/deletions as they occur.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on _____ in _____, California.

(Seal of business)

By: _____
(Please print)

(Title)

(Signature)

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Exhibit D (continued)

**List of Employees Authorized
To Come On To School Campuses**

| <u>Name:</u> | <u>School</u> |
|---------------------|----------------------|
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| | |