

AGENDA OF THE MEASURE BB OVERSIGHT COMMITTEE

MANHATTAN BEACH UNIFIED SCHOOL DISTRICT
325 S. Peck Ave., Manhattan Beach, CA 90266

March 14, 2011
7:00 p.m.

In compliance with the Americans with Disabilities Act, for those requiring special assistance to access the Committee meeting room, to access written documents being discussed at the Committee meeting, or to otherwise participate at Committee meetings, please contact the Board Secretary, Nancy Bogart, at 310-318-7345, ext. 5902, for assistance. Notification at least 48 hours before the meeting will enable the District to make reasonable arrangements to ensure accessibility to the Committee meeting and to provide any required accommodations, auxiliary aids or services.

Writings related to a Committee meeting agenda item that are distributed to at least a majority of Committee members less than 72 hours before a noticed meeting, and that are public records not otherwise exempt from disclosure, will be available for inspection at the District office, 325 S. Peck Avenue, Manhattan Beach, CA 90266. Such writings may also be available on the District's website. (Government Code §54957.5 (b)).

A. CALL TO ORDER

1. Call to Order
2. Pledge of Allegiance

B. ANNOUNCEMENTS AND COMMUNICATIONS

1. Public Comment Regarding Agenda
The purpose of this section is to permit any person in the audience to make a statement to the Committee on items on the Agenda. Persons are limited to three (3) minutes for their communication, unless the Committee deems otherwise. The Chairman will conclude the Public Comment after a reasonable length of time and proceed with the Agenda. The Chairman may, at its discretion, permit statements on items not on the Agenda, but pertaining to the District, if appropriate and not an impediment to the efficiency and orderliness of the meeting; however, no action shall be taken on any item not appearing on the Agenda.

C. PRESENTATION

1. Presentation of Budget to Actuals and Timelines (Bernards Construction Management Services).
2. Lease, Lease Back Presentation – Legal Counsel Sam Santana from Dannis, Woliver, Kelley.

D. COMMITTEE BUSINESS

1. Preparation of Next Quarterly Report – Tim Flake

2. Review of Core Assignment, in Particular, BOC Protocol to Review cash Expenditures.
- Pg 1 – 16 3. General Obligation Bonds Financial and Performance Audit for Year Ending June 30, 2010 – For Information and Review.
- Pg 17 – 54 4. Agreement for Construction Management Services – For Information and Review.
- Pg 55 - 57 5. Approval of January 10, 2011 Bond Oversight Committee Minutes.

E. PUBLIC COMMENTS

As a courtesy, please complete the Public Comment card and give it to the Recorder before the beginning of this meeting. You will have three (3) minutes to speak.

F. ITEMS FOR FUTURE MEETINGS

G. ADJOURNMENT

MANHATTAN BEACH ELEMENTARY SCHOOL DISTRICT

GENERAL OBLIGATION BONDS

**FINANCIAL AUDIT
AND
PERFORMANCE AUDIT**

JUNE 30, 2010

MANHATTAN BEACH UNIFIED SCHOOL DISTRICT

**BUILDING FUND
(PROPOSITION 39)**

FINANCIAL STATEMENT AUDIT

JUNE 30, 2010

**MANHATTAN BEACH UNIFIED SCHOOL DISTRICT
ELECTION 2008, 2009 SERIES A GENERAL OBLIGATION BONDS**

JUNE 30, 2010

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INDEPENDENT AUDITORS' REPORT

Governing Board and Citizens' Oversight Committee
Manhattan Beach Unified School District
Montebello, California

We have audited the accompanying financial statements of the Building Fund of the Manhattan Beach Unified School District (the District), as of the year ended June 30, 2010, as listed in the table of contents. These financial statements are the responsibility of the District's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

As discussed in Note 1, the financial statements present only the Building Fund and do not purport to, and do not, present fairly the financial position of the District as of June 30, 2010, and the changes in its financial position for the year then ended in conformity with accounting principles generally accepted in the United States of America.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the Building Fund of the District at June 30, 2010, and the changes in financial position thereof for the year then ended in conformity with accounting principles generally accepted in the United States of America.

Vavrinek, Trine, Day & Co., LLP
Rancho Cucamonga, California
December 20, 2010

**MANHATTAN BEACH UNIFIED SCHOOL DISTRICT
BUILDING FUND (PROPOSITION 39)**

**BALANCE SHEET
JUNE 30, 2010**

ASSETS

Cash and investments	\$ 2,946,583
Accounts receivable	11,327
Total Assets	<u>\$ 2,957,910</u>

LIABILITIES AND FUND BALANCE

Liabilities:

Accounts payable	<u>\$ 455,112</u>
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Fund Balance:

Fund balance	
Undesignated	<u>2,502,798</u>
Total Liabilities and Fund Balance	<u>\$ 2,957,910</u>

The accompanying notes are an integral part of these financial statements.

**MANHATTAN BEACH UNIFIED SCHOOL DISTRICT
BUILDING FUND (PROPOSITION 39)**

**STATEMENT OF REVENUES, EXPENDITURES, AND CHANGES
IN FUND BALANCE
JUNE 30, 2010**

REVENUES

Other local revenues \$ 99,092

EXPENDITURES

Site Acquisition and Development 966,859

Debt Service - Principal 4,250,000

Debt Service - Interest 160,878

Total Expenditures 5,377,737

EXCESS OF EXPENDITURES OVER REVENUES (5,278,645)

OTHER FINANCING SOURCES

Other Sources - Bond Proceeds 7,781,443

Total Other Financing Sources 7,781,443

**EXCESS OF REVENUES AND OTHER FINANCING SOURCES
OVER EXPENDITURES** 2,502,798

FUND BALANCE, BEGINNING OF YEAR -

FUND BALANCE, END OF YEAR \$ 2,502,798

The accompanying notes are an integral part of these financial statements.

**MANHATTAN BEACH UNIFIED SCHOOL DISTRICT
BUILDING FUND (PROPOSITION 39)**

**NOTES TO FINANCIAL STATEMENTS
JUNE 30, 2010**

NOTE 1 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

The accounting policies of the Manhattan Beach Unified School District (the District) bond funds conform to accounting principles generally accepted in the United States of America as prescribed by the Governmental Accounting Standards Board (GASB) and the American Institute of Certified Public Accountants. The Manhattan Beach Unified School District Building Fund accounts for financial transactions in accordance with the policies and procedures of the California School Accounting Manual.

Financial Reporting Entity

The audited financial statements include only the Building Fund of the Manhattan Beach Unified School District that was established to account for the expenditures of the general obligation bonds issued in June 2009. These financial statements are not intended to present fairly the financial position and the changes in financial position of the Manhattan Beach Unified School District in compliance with accounting principles generally accepted in the United States of America.

Fund Accounting

The operations of the Building Fund are accounted for in a separate set of self-balancing accounts that comprise its assets, liabilities, fund balance, revenues, and expenditures. Resources are allocated to and accounted for in the fund based upon the purpose for which they are to be spent and the means by which spending activities are controlled.

Basis of Accounting

Basis of accounting refers to when revenues and expenditures or expenses are recognized in the accounts and reported in the financial statements. Basis of accounting relates to the timing of measurement made, regardless of the measurement focus applied.

Governmental funds are generally accounted for using the modified accrual basis of accounting. Their revenues are recognized in the accounting period in which they become both measurable and available to finance expenditures of the current fiscal period. Expenditures are recognized in the accounting period in which the liability is incurred (when goods are received or services rendered), except for unmatured interest on long-term debt, which is recognized when due.

Encumbrances

The District utilizes an encumbrance accounting system under which purchase orders, contracts, and other commitments for the expenditure of monies are recorded in order to reserve that portion of the applicable appropriation. Encumbrances are liquidated when the commitments are paid and all outstanding encumbrances are liquidated at June 30, 2010, since they do not constitute expenditures or liabilities.

**MANHATTAN BEACH UNIFIED SCHOOL DISTRICT
BUILDING FUND (PROPOSITION 39)**

**NOTES TO FINANCIAL STATEMENTS
JUNE 30, 2010**

Fund Balance Reserves and Designations

Reservations of the ending fund balance indicate the portions of fund balance not available for appropriation or amounts legally segregated for a specific future use. Designations of the ending fund balance indicate tentative plans for financial resource utilization in a future period.

Property Tax

Secured property taxes attach as an enforceable lien on property as of January 1. Taxes are payable in two installments on September 1 and March 1 and become delinquent on October 10 and April 10, respectively. Unsecured property taxes are payable in one installment on or before August 31. The County of Los Angeles bills and collects the taxes for the District. The District recognizes tax revenues when received.

Use of Estimates

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenditures/expenses during the reporting period. Actual results could differ from those estimates.

NOTE 2 - INVESTMENTS

Investments at June 30, 2010, held on behalf of the Building Fund of the Manhattan Beach Unified School District consist of deposits in the County of Los Angeles Treasury:

	<u>Reported Amount</u>	<u>Fair Value</u>
Uncategorized		
Deposits with county treasurer	<u>\$ 2,946,583</u>	<u>\$ 2,963,673</u>

Deposits with county treasurer are an external investment pool sponsored by the County of Los Angeles. School districts are required to deposit all receipts and collections of monies with their county treasurer (Education Code Section 15146(b)).

Therefore, the District is considered to be an involuntary participant in an external investment pool. County deposits are not required to be categorized. The pool sponsor provided the fair value for these deposits.

**MANHATTAN BEACH UNIFIED SCHOOL DISTRICT
BUILDING FUND (PROPOSITION 39)**

**NOTES TO FINANCIAL STATEMENTS
JUNE 30, 2010**

NOTE 3 - LONG-TERM OBLIGATIONS

Summary

Under the modified accrual basis of accounting, liabilities for long-term obligations are reported in the long-term obligations rather than the Building or other funds. A schedule of changes in long-term obligations for the year ended June 30, 2010, is shown below:

General Obligation Bonds (Proposition 39 Only)

	Balance Beginning of Year	Additions	Deductions	Balance End of Year
General obligation bonds	\$ -	\$ 7,990,658	\$ -	\$ 7,990,658

Bonded Debt

The outstanding general obligation bonded debt is as follows:

Issue Date	Maturity Date	Interest Rate	Original Issue	Bonds Beginning of Year	Additions	Redeemed	Bonds End of Year
2009	2031	6.39 - 6.73%	\$ 7,651,589	\$ -	\$ 7,990,658	\$ -	\$ 7,990,658

Debt Service Requirements

The general obligation bonds mature through 2032 as follows:

Fiscal Year	Principal Including Accreted Interest to Date	Current Interest to Maturity	Total
2011	\$ -	\$ -	\$ -
2012	-	-	-
2013	-	-	-
2014	-	-	-
2015	-	-	-
2016-2020	-	-	-
2021-2025	-	-	-
2026-2030	4,801,606	12,078,394	16,880,000
2031-2032	3,189,052	9,515,948	12,705,000
Total	\$ 7,990,658	\$ 21,594,342	\$ 29,585,000

**MANHATTAN BEACH UNIFIED SCHOOL DISTRICT
PROPOSITION 39**

REVIEW OF

**ELECTION 2008, 2009 SERIES A
GENERAL OBLIGATION BONDS**

WITH

**INDEPENDENT ACCOUNTANTS' REPORT
ON APPLYING AGREED-UPON PROCEDURES**

JUNE 30, 2010

**MANHATTAN BEACH UNIFIED SCHOOL DISTRICT
ELECTION 2008, 2009 SERIES A GENERAL OBLIGATION BONDS**

JUNE 30, 2010

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**INDEPENDENT ACCOUNTANTS' REPORT
ON APPLYING AGREED-UPON PROCEDURES**

Governing Board
Manhattan Beach Unified School District
Manhattan Beach, California

The Election 2008, 2009 Series A General Obligation Citizens' Bond Oversight Committee

We have performed the agreed-upon procedures enumerated in Exhibit A, which were agreed to by Manhattan Beach Unified School District of Los Angeles County, solely to assist the users in identifying findings and recommendations in the areas with respect to the Manhattan Beach Unified School District (County of Los Angeles, California) General Obligation Bonds 2008 Election, 2009 Series A, for the period ended June 30, 2010. This engagement to perform agreed-upon procedures was performed in accordance with standards established by the American Institute of Certified Public Accountants and meets the compliance requirements to perform an "audit" as outlined in subparagraph (C) of paragraph (3) of subdivision (b) of Section 1 of Article XIII A of the California Constitution. The sufficiency of the procedures is solely the responsibility of the specified users of the report. Consequently, we make no representation regarding the sufficiency of the procedures described below either for the purpose for which this report has been requested or for any other purpose.

The procedures we performed and the associated results are described in this report as Exhibit A.

We were not engaged to, and did not, perform an audit of all financial statements of the District, the objective of which would be the expression of an opinion relating to the matters included in the agreed-upon procedures. Accordingly, we do not express such an opinion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

This report is intended solely for the use of the specified users listed above and should not be used by those who have not agreed to the procedures and taken responsibility for the sufficiency of the procedures for their purposes.

Vavrinek, Trine, Day & Co., LLP
Rancho Cucamonga, California
December 20, 2010

**ELECTION 2008, 2009 SERIES A GENERAL OBLIGATION BONDS
AGREED-UPON PROCEDURES
JUNE 30, 2010**

The Manhattan Beach Unified School District requested that the following agreed-upon procedures be performed:

Procedures Performed

1. Verify that the expenditure of funds was accounted for separately in the accounting records to allow for accountability.
2. Verify that the net funds from the sale of the General Obligation Bonds were deposited in total into the District's accounts by obtaining settlement statement for the new bond issue and verifying amounts deposited into the Building Fund.
3. Select the expenditures at each location and verify that the funds expended complied with the purpose that was specified to the registered voters of the District through election materials and District resolutions that were distributed.

Results of Procedures

1. The General Obligation Bond fund expenditures were accounted for separately in the Building Fund of the District.
2. The net proceeds from the sale of the General Obligation Bonds were deposited into the appropriate accounts within the Building Fund and the Bond Interest and Redemption Fund.
3. Our review of the expenditures for the period ended June 30, 2010, did not reveal any items that were paid from the General Obligation Bond Funds that did not comply with the purpose of the Bonds that were approved by the registered voters of the District on November 4, 2008.

MANHATTAN BEACH UNIFIED SCHOOL DISTRICT

(County of Los Angeles, California)

ELECTION 2008, 2009 SERIES A GENERAL OBLIGATION BONDS

THE BONDS

Authority for Issuance

The \$7,651,589.45 principal amount of Bonds of the District are general obligation bonds to be issued under California law, including the Smaller Classes, Safer School and Financial Accountability Act, of which Article XIII A (b)(3) of the State of California Constitution is part, and related California law, provisions of Title 5, Division 2, Part 1, Chapter 3, Article 4.5 of the State of California Government Code, commencing with Section 53506, and provisions of Title 1, Division 1, Part 10, Chapter 1 and 1.5 of the State of California *Education Code*, commencing with Section 15100, and pursuant to the Bond Resolution. The Bonds are the first series of an authorization of \$67,480,000 approved by district voters on November 4, 2008. After the issuance of the Bonds, the District will have \$59,828,410.55 of the authorized but unissued bonds.

Terms of Sale

The Bonds were sold at public sale pursuant to the terms of sale contained in the Official Notice of Sale adopted by the Governing Board of the District on June 23, 2009.

**MANHATTAN BEACH UNIFIED SCHOOL DISTRICT
ELECTION 2008, 2009 SERIES A GENERAL OBLIGATION BONDS**

**STATEMENT OF RECEIPTS, DISBURSEMENTS, AND CHANGES
IN FUND BALANCE
JUNE 30, 2010**

Receipts

Proceeds from the Bond Issuance	\$ 7,651,589
Interest	51,960
Other Revenue	176,986
Total Receipts	<u>7,880,535</u>

Disbursements

Site Expenditures	966,859
Debt Service - Principal	4,250,000
Debt Service - Interest	160,878
Total Site Expenditures	<u>5,377,737</u>

Increase in Fund Balance

2,502,798

Fund Balance, Beginning of Year

-

Fund Balance, End of Year

\$ 2,502,798

**MANHATTAN BEACH UNIFIED SCHOOL DISTRICT
ELECTION 2008, 2009 SERIES A GENERAL OBLIGATION BONDS**

**SCHEDULE OF DISBURSEMENTS BY SITE
FOR THE YEAR ENDED JUNE 30, 2010**

Disbursements	Mira Costa High School
Advertisement	\$ 1,410
Architect Fees	813,810
Building Construction	46,466
Other Planning Cost	32,813
Test on Building Improvements	72,360
Total Site Expenditures	<u>\$ 966,859</u>

**AGREEMENT FOR CONSTRUCTION MANAGEMENT SERVICES
(PROJECT MANAGEMENT)**

This Agreement for Construction Management Services ("Agreement") is made as of May 1, 2010, between the Manhattan Beach Unified School District a California public school district ("District") and Bernards Bros., Inc., a California Corporation [dba Bernards] ("Construction Manager") (both collectively "Parties"), for the projects described below, which shall be referred to herein as the "Project" or "Projects":

Construction management services during design and construction administration of the following projects:

Mira Costa High School Addition and Renovation

See Exhibit "A" for detailed Project scopes.

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

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

Article 1. Definitions

- 1.1. In addition to the definitions above, the following definitions for words or phrases shall apply when used in this Agreement, including all Exhibits:
 - 1.1.1. **Agreement:** The Agreement consists exclusively of this document and all identified exhibits attached and incorporated by reference.
 - 1.1.2. **Architect:** The architect(s) that the District designates as being the architect(s) for all or a portion of the Project, including all consultants to the Architect(s).
 - 1.1.3. **Construction Manager:** The entity listed in the first paragraph of this Agreement, including all Consultant(s) to the Construction Manager.
 - 1.1.4. **Construction Budget:** The total amount indicated by the District for the Project plus all other costs, including design, construction, administration, financing, and all other costs.

- 1.1.5. **Construction Cost Budget:** The total cost to District of all elements of the Project designed or specified by the Architect, as adjusted at the end of each design phase in accordance with this Agreement. The Construction Cost Budget does not include the compensation of the Program Manager, the Architect and the Architect's consultants, the Construction Manager, the cost of the land, rights-of-way, financing or other costs which are the responsibility of the District.
- 1.1.6. **Consultant(s):** Any and all consultant(s), sub-consultant(s), subcontractor(s), or agent(s) to the Construction Manager.
- 1.1.7. **Design Team:** The Architect(s) that the District designates as being the architect(s) for all or a portion of the Project, including all consultants to the Architect(s), plus all engineer(s) or other designer(s), who have a responsibility to the District to design all or a portion of the Project either directly or as a subconsultant or subcontractor.
- 1.1.8. **DSA:** The Division of the State Architect.
- 1.1.9. **Extra Services:** Extra Services are defined in Article 7 and Exhibit "B."
- 1.1.10. **Fee:** The Construction Manager's Fee is defined in Section 6.1, payable as set forth in Article 6 and in Exhibit "D."
- 1.1.11. **Program Manager:** Any program manager hired to perform program management services for the District, including all Consultant(s) to the Program Manager. If no Program Manager is hired by the District for the Project(s), then all references to "Program Manager" shall be read and interpreted as the District.
- 1.1.12. **Service(s):** All labor, materials, supervision, services, tasks, and work that the Construction Manager is required to perform and that are required by, or reasonably inferred from, the Agreement, and that are necessary for the design and completion of the Project.

Article 2. Scope, Responsibilities And Services Of Construction Manager

- 2.1. **Scope:** Construction Manager shall provide the Services described herein and under Exhibit "A" for the Project. The parties agree that the Construction Manager's Services described herein are based on a construction manager / multiple-prime structure on the Project(s). The District reserves the right to change this structure including, without limitation, utilizing a construction manager / general contractor structure, a design-build structure, or a lease-leaseback structure, each of which the Parties agree may require the Construction Manager's Fee and Scope as well as certain terms and conditions of this Agreement to be adjusted by an amendment, in writing and signed by both Parties.

- 2.2. **Coordination:** In the performance of Construction Manager's services under this Agreement, Construction Manager agrees that it will maintain such coordination with District personnel and/or its designated representatives as may be requested and desirable. This shall include, without limitation, coordination with all members of the Design Team, and the persons responsible for operation of the District's Labor Compliance Program, if any. If the Construction Manager employs sub-consultant(s), the Construction Manager shall ensure that its contract(s) with its sub-consultant(s) include language notifying the sub-consultant(s) of the District's Labor Compliance Program, if any.
- 2.3. **Construction Manager's Services:** Construction Manager shall act as the District's agent to render the services and furnish the work as described in Exhibit "A," which will commence upon the receipt of a Notice to Proceed signed by the District representative. Construction Manager's services will be completed in accordance with the schedule attached as Exhibit "C."

Article 3. Construction Manager Staff

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

Principal in Charge:	Michael Cawlina
Project Director:	Jack Hall

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

Article 4. Schedule Of Work

The Construction Manager shall commence work under this Agreement upon receipt of a Notice to Proceed, and shall prosecute the work diligently as described in **Exhibit "A"** in accordance with the schedule attached as **Exhibit "C"** for a term of up to five (5) years, renewable at the District's sole discretion. Time is of the essence and failure of Construction Manager to perform work on time as specified in this Agreement is a material breach of this Agreement.

Article 5. Construction Cost Budget

- 5.1. The Construction Manager shall have responsibility to develop, review, and reconcile the Construction Cost Budget with the Architect and the District throughout the design process and construction.
- 5.2. The Construction Cost Budget shall be the total cost to District of all elements of the Project designed or specified by the Project design professional(s). The Construction Cost Budget does not include the compensation of the Construction Manager, the Project design professional(s), sub-consultants, the cost of the land, rights-of-way, financing or other costs which are the responsibility of the District.
- 5.3. Construction Manager shall work cooperatively with the Project design professional(s) during the Schematic Design Phase, Design Development Phase, and Construction Documents Phase, as described in **Exhibit "A,"** so that the construction cost of the work designed by the Project design professional(s) will not exceed the Construction Cost Budget, as may be adjusted subsequently with the District's written approval. The Construction Manager shall notify the District if it believes the construction cost of the work by the Project design professional(s) will exceed the Construction Cost Budget. The Construction Manager, however, shall not perform or be responsible for any design or architectural services.
- 5.4. Evaluations of the District's Construction Budget, and preliminary and detailed cost estimates prepared by the Construction Manager, represent the Construction Manager's best judgment as a professional familiar with the construction industry.
- 5.5. If the Bidding Phase has not commenced within ninety (90) days after DSA approval, the Construction Cost Budget shall be adjusted to reflect changes in the general level of prices in the construction industry between the date of submission of the Construction Documents to the District and the date on which proposals are sought.
- 5.6. If any of the following events occur:
 - 5.6.1. If the lowest responsive base bid received is in excess of ten percent (10%) of the Construction Cost Budget, or

5.6.2. If the combined total of base bid and all additive alternates come in fifteen percent (15%) or more under the Construction Cost Budget, or

5.6.3. If the Construction Cost Budget increases in phases subsequent to the Schematic Design Phase due to reasonably foreseeable changes in the condition of the construction market in the county in which the District is located, in so far as these have not been caused by Acts of God, earthquakes, strikes, war, or energy shortages due to uncontrollable events in the world economy, then the District, in its sole discretion, has one or a combination of the following alternatives:

5.6.3.1. Give the Construction Manager written approval on an agreed adjustment to the Construction Cost Budget.

5.6.3.2. Authorize the Construction Manager to re-negotiate, where appropriate, re-bid on or more Projects within three (3) months time (exclusive of District and other agencies' review time) at no additional cost to the District.

5.6.3.3. Terminate this Agreement if the Project is abandoned, without further obligation by either party.

5.6.3.4. Instruct the Project design professional(s) to revise the drawings and specifications to bring the Project within the Construction Cost Budget for re-bidding, with Construction Manager's performing cost estimating, value engineering, and/or bidding support at no additional cost to the District.

5.7. The Construction Cost Budget shall be reconciled at the completion of each design phase.

Article 6. Fee And Method Of Payment

6.1. District shall pay Construction Manager

an amount equal to Two Million Five Hundred Eighty Eight Thousand dollars (\$2,588,000.00)

for all services contracted for under this Agreement and based on the Fee Schedule attached to **Exhibit "D and Exhibit D1"**

6.2. District shall pay Construction Manager the Fee pursuant to the provisions herein and in **Exhibit "D."**

6.3. Construction Manager shall bill its work under this Agreement in accordance with **Exhibit "D."**

6.4. No increase in fee will be due from change orders generated during the construction period to the extent caused by Construction Manager's error.

- 6.5. The Construction Manager's fee set forth in this Agreement shall be full compensation for all of Construction Manager's Services incurred in the performance hereof as indicated in Exhibit "D", including, without limitation, all costs for personnel, travel within two hundred (200) miles of the Project location, offices, per diem expenses, printing, providing, or shipping of deliverables in the quantities set forth in Exhibit "A."

Article 7. Payment for Extra Services

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

Article 8. Ownership Of Data

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

Article 9. Termination Of Contract

- 9.1. If Construction Manager fails to perform Construction Manager's duties to the satisfaction of the District, or if Construction Manager fails to fulfill in a timely and professional manner Construction Manager's material obligations under this Agreement, or if Construction Manager shall violate any of the material terms or provisions of this Agreement, the District shall have the right to terminate this Agreement effective immediately upon the District giving written notice thereof to the Construction Manager. In the event of a termination pursuant to this subdivision, Construction Manager may invoice District for all work performed until the notice of termination, but District shall have the right to withhold payment and deduct any amounts equal to the District's costs because of Construction Manager's actions, errors, or omissions that caused the District to terminate the Construction Manager.

- 9.2. District shall have the right in its sole discretion to terminate the Agreement for its own convenience. This includes the District Governing Board's determination that the Project should be terminated. This termination for convenience may occur at any time in the progress of the Project. The Construction Manager, upon written notice from the District of such termination, shall immediately cease work on the Project. The Construction Manager may invoice District and District shall pay all undisputed invoice(s) for work satisfactorily performed until the notice of termination. This shall be the only amount(s) potentially owing to Construction Manager's if there is a termination for convenience.
- 9.3. The Construction Manager has the right to terminate this Agreement if the District does not fulfill its material obligations under this Agreement and fails to cure such material default within sixty (60) days, or if the default cannot be cured within sixty (60) days, commence to cure such default, diligently pursue such cure, and complete the cure within a reasonable time following written notice and demand from Construction Manager. Such termination shall be effective after receipt of written notice from Construction Manager to the District.
- 9.4. Except as indicated in this Article, termination shall have no effect upon any of the rights and obligations of the Parties arising out of any transaction occurring prior to the effective date of such termination.
- 9.5. If the Project is suspended by the District for more than one hundred and eighty (180) consecutive days, the Construction Manager shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the schedule shall be adjusted and the Construction Manager's compensation shall be equitably adjusted to provide for expenses incurred in the resumption of the Construction Manager's services. Upon resumption of the Project after suspension, the Construction Manager will take all reasonable efforts to maintain the same Project personnel.

Article 10. Indemnity

- 10.1. To the furthest extent permitted by California law, Construction Manager shall defend, indemnify and hold free and harmless the District, its agents, representative, officers, consultants, employees, trustees, and volunteers (the "indemnified parties") from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity ("Claims"), to property or persons, including personal injury and/or death, directly or indirectly arising out of, connected with, or resulting from the performance of the services, the Project, or this Agreement unless a Claim is caused by the sole negligence or sole willful misconduct of the indemnified parties.

- 10.2. Construction Manager shall pay and satisfy any judgment, award or decree that may be rendered against the indemnified parties in any Claim. Construction Manager shall also reimburse District for the cost of any settlement paid by District arising out of any Claim. Construction Manager shall reimburse the indemnified parties for any and all legal expenses and costs, including attorneys' fees, expert witness fees and consultant fees, incurred by each of them in connection therewith or in enforcing the indemnity herein provided to the extent caused by the above agreement to indemnify. Construction Manager's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by the indemnified parties. District shall have the right to accept or reject any legal representation that Construction Manager proposes to defend the indemnified parties.

Article 11. Fingerprinting

- 11.1. Unless the District has determined pursuant to Education Code section 45125.2 that on the basis of scope of work in this Agreement that Construction Manager and its subcontractors and employees will have only limited contact with pupils, the Construction Manager shall comply with the provisions of Education Code section 45125.01 regarding the submission of employee fingerprints to the California Department of Justice and the completion of criminal background investigations of its employees. The Construction Manager shall not permit any employee to have any contact with District pupils until such time as the Construction Manager has verified in writing to the governing board of the District that the employee has not been convicted of a felony, as defined in Education Code section 45122.1. The Construction Manager's responsibility shall extend to all employees, agents, and employees or agents of its subcontracts regardless of whether those individuals are paid or unpaid, concurrently employed by the District, or acting as independent contractors of the Construction Manager. Verification of compliance with this section and the Criminal Background Investigation Certification (**Exhibit "E"**) shall be provided in writing to the District prior to each individual's commencement of employment or participation on the Project and prior to permitting contact with any student.
- 11.2. No drugs, alcohol and/or smoking are allowed at any time in any buildings and/or grounds on District property. No students, staff, visitors, or contractors are to use drugs on these sites.
- 11.3. Unacceptable and/or loud language will not be tolerated. "Cat calls" or other derogatory language toward students or public will not be allowed.

Article 12. Responsibilities Of The District

- 12.1. The District shall examine the documents submitted by the Construction Manager and shall render decisions so as to avoid unreasonable delay in the process of the Construction Manager's services.

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

Article 13. Liability Of District

- 13.1. Other than as provided in this Agreement, District's obligations under this Agreement shall be limited to the payment of the compensation provided in this Agreement. Notwithstanding any other provision of this Agreement, in no event shall District be liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including, but not limited to, lost profits or revenue, arising out of or in connection with this Agreement for the services performed in connection with this Agreement.
- 13.2. Any and all costs incurred by District, or for which District may become liable, to the extent caused by negligent delays of Construction Manager in its performance hereunder, shall be paid to District by Construction Manager as provided for herein and/or under California law.
- 13.3. District shall not be responsible for any damage to persons or property as a result of the use, misuse or failure of any equipment used by Construction Manager, or by its employees, even though such equipment be furnished or loaned to Construction Manager by District.

- 13.4. The Construction Manager hereby waives any and all claim(s) for recovery from the District under this Agreement, which loss or damage is covered by valid and collectible insurance policies. Construction Manager agrees to have its required insurance policies endorsed to prevent the invalidation of insurance coverage by reason of this waiver. This waiver shall extend to claims paid, or expenses incurred, by Construction Manager's insurance company on behalf of the District.

Article 14. Insurance

- 14.1. Construction Manager shall procure prior to commencement of the work of this Agreement and maintain for the duration of the Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Construction Manager, their agents, representatives, employees and sub-consultant(s).
- 14.2. **Minimum Scope and limits of Insurance:** Coverage shall be at least as broad as the following scopes and limits:
- 14.2.1. **Commercial General Liability.** one million dollars (\$1,000,000) per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
 - 14.2.2. **Commercial Automobile Liability, Any Auto.** one million dollars (\$1,000,000) per accident for bodily injury and property damage.
 - 14.2.3. **Workers' Compensation.** Statutory limits required by the State of California and
 - 14.2.4. **Employer's Liability.** one million dollars (\$1,000,000) per accident for bodily injury or disease.
 - 14.2.5. **Professional Liability.** This insurance shall cover the Construction Manager and his/her sub-consultant(s) for one million dollars (\$1,000,000) aggregate limit subject to no more than Fifty Thousand dollars (\$50,000) per claim deductible, coverage to continue through completion of construction plus two years thereafter. The policy must contain terms or endorsements extending coverage that requires the insurer to defend and indemnify for acts which happen before the effective date of the policy provided the claim is first made during the policy period.
- 14.3. The District reserves the right to modify the limits and coverages described herein, with appropriate credits or changes to be negotiated for such changes.

- 14.4. Deductibles and Self-Insured Retention:** Any deductibles or self-insured retention exceeding \$50,000 must be declared to and approved by the District. At the option of the District, either: the insurer shall reduce or eliminate such deductibles or self-insured retention as respects the District, its officers, officials, employees and volunteers; or the Construction Manager shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.
- 14.5. Other Insurance Provisions:** The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:
- 14.5.1.** All policies except for the professional insurance policy shall be written on an occurrence form
- 14.5.2.** The District, the Construction Manager, their representatives, consultants, trustees, officers, officials, employees, agents, and volunteers ("Additional Insureds") are to be covered as additional insureds as respects liability arising out of activities performed by or on behalf of the Construction Manager; instruments of service and completed operations of the Construction Manager; premises owned, occupied or used by the Construction Manager; or automobiles owned, leased, hired or borrowed by the Construction Manager. The coverage shall contain no special limitations on the scope of protection afforded to the Additional Insureds.
- 14.5.3.** For any claims related to this project, the Construction Manager's insurance coverage shall be primary insurance as respects the Additional Insureds. Any insurance or self-insurance maintained by the Additional Insureds shall be in excess of the Construction Manager's insurance and shall not contribute with it.
- 14.5.4.** Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the Additional Insureds.
- 14.5.5.** The Construction Manager's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- 14.5.6.** Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the District.
- 14.6. Acceptability of Insurers:** Insurance is to be placed with insurers admitted in California with a current A.M. Best's rating of no less than A:VII.

14.7. Verification of Coverage: Construction Manager shall furnish the District with:

14.7.1. Certificates of insurance showing maintenance of the required insurance coverage;

14.7.2. Original endorsements affecting general liability and automobile liability coverage. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. All endorsements are to be received and approved by the District before work commences.

Article 15. Nondiscrimination

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

Article 16. Covenant Against Contingent Fees

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

Article 17. Entire Agreement/Modification

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

Article 18. Non-Assignment Of Agreement

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

Article 19. Law, Venue

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

Article 20. Alternative Dispute Resolution

All claims, disputes or controversies arising out of, or in relation to the interpretation, application or enforcement of this Agreement may be decided through mediation as the first method of resolution. If this method proves unsuccessful, then all claims, disputes or controversies as stated above may be decided through arbitration, if agreed to by all Parties.

Article 21. Severability

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

Article 22. Employment Status

- 22.1. Construction Manager shall, during the entire term of Agreement, be construed to be an independent contractor and nothing in this Agreement is intended nor shall be construed to create an employer-employee relationship, a joint venture relationship, or to allow District to exercise discretion or control over the professional manner in which the Construction Manager performs the services which are the subject matter of this Agreement; provided always, however, that the services to be provided by Construction Manager shall be provided in a manner consistent with all applicable standards and regulations governing such services.

- 22.2. Construction Manager understands and agrees that the Construction Manager's personnel are not and will not be eligible for membership in or any benefits from any District group plan for hospital, surgical or medical insurance or for membership in any District retirement program or for paid vacation, paid sick leave or other leave, with or without pay or for other benefits which accrue to a District employee.
- 22.3. Should District, in its discretion, or a relevant taxing authority such as the Internal Revenue Service or the State Employment Development Department, or both, determine that Construction Manager is an employee for purposes of collection of any employment taxes, the amounts payable under this Agreement shall be reduced by amounts equal to both the employee and employer portions of the tax due (and offsetting any credits for amounts already paid by Construction Manager which can be applied against this liability). District shall then forward those amounts to the relevant taxing authority.
- 22.4. Should a relevant taxing authority determine a liability for past services performed by Construction Manager for District, upon notification of such fact by District, Construction Manager shall promptly remit such amount due or arrange with District to have the amount due withheld from future payments to Construction Manager under this Agreement (again, offsetting any amounts already paid by Construction Manager which can be applied as a credit against such liability).
- 22.5. A determination of employment status pursuant to the preceding two paragraphs shall be solely for the purposes of the particular tax in question, and for all other purposes of this Agreement, Construction Manager shall not be considered an employee of District. Notwithstanding the foregoing, should any court, arbitrator, or administrative authority determine that Construction Manager is an employee for any other purpose, then Construction Manager agrees to a reduction in District's liability resulting from this Agreement pursuant to principles similar to those stated in the foregoing paragraphs so that the total expenses of District under this Agreement shall not be greater than they would have been had the court, arbitrator, or administrative authority determined that Construction Manager was not an employee.
- 22.6. Nothing in this Agreement shall operate to confer rights or benefits on persons or entities not a party to this Agreement.

Article 23. Warranty Of Construction Manager

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

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

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

Article 24. Cost Disclosure - Documents And Written Reports

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

Article 25. Communications / Notice

If notice is given by registered or certified mail with postage prepaid, return receipt requested, it shall be considered delivered on the day the notice is signed for

if to District:

Steve Romines Ph. D., Assistant Superintendent
Manhattan Beach Unified School District
325 South Peck Ave.
Manhattan Beach, CA 90266

Telephone: (310) 318-7345

Facsimile:

With a copy to:

Miller Brown & Dannis
301 E. Ocean Blvd., Suite 1750
Long Beach, CA 90802
Attention: Samuel R. Santana

Telephone: (562) 366-8500

Facsimile: (562) 366-8505

If to Construction Manager:

Jack A. Hall, Project Executive
Bernards
555 First Street San Fernando, CA 91340

Telephone: (818) 898-1521

Facsimile: (818) 365-0065

The Construction Manager and the District, by notice given hereunder, may designate different addresses to which subsequent notices, certificates or other communications will be sent.

Article 26. Disabled Veteran Business Enterprise Participation

Pursuant to section 17076.11 of the Education Code, the District has a participation goal for disabled veteran business enterprises (DVBES) of at least three (3) percent, per year, of funds expended each year by the District on projects that use funds allocated by the State Allocation Board pursuant to the Leroy F. Greene School Facilities Act (the Act). This Project may use funds allocated under the Act. Therefore, to the extent feasible, the Construction Manager shall provide to the District certification of compliance with the procedures for implementation of DVBE contracting goals, appropriate documentation identifying the amount paid to DVBEs in conjunction with the contract, and documentation demonstrating the Construction Manager's good faith efforts to meet these goals.

Article 27. Other Provisions

- 27.1. The Construction Manager shall be responsible for the cost of construction change orders caused directly by the Construction Manager's willful misconduct or negligent acts, errors or omissions. Without limiting Construction Manager's liability for indirect or consequential cost impacts, the direct costs for which the Construction Manager shall be liable shall equal its proportionate share of the difference between the cost of the change order and the reasonable cost of the work had such work been a part of the originally prepared construction documents.
- 27.2. Neither the District's review, approval of, nor payment for, any of the services required under this Agreement shall be construed to operate as a waiver of any rights under this Agreement, and Construction Manager shall remain liable to the District in accordance with this Agreement for all damages to the District caused by Construction Manager's failure to perform any of the services furnished under this Agreement to the standard of care of the Construction Manager for its Services, which shall be, at a minimum, the standard of care of construction managers performing similar work for California school districts at or around the same time and in or around the same geographic area of the District.
- 27.3. Each party warrants that it has had the opportunity to consult counsel and understands the terms of this Agreement and the consequences of executing it. In addition, each party acknowledges that the drafting of this Agreement was the product of negotiation, that no party is the author of this Agreement, and that this Agreement shall not be construed against any party as the drafter of the Agreement.

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

Dated: 5-19, 2010

Manhattan Beach Unified School District

By: [Signature]

Print Name: STEVE REMINGS

Print Title: ASST. Supt.

Dated: 5/12/10, 2010

Bernards Bros. Inc.

By: [Signature]

Print Name: Michael J. Cawline

Print Title: President, Mgmt. Services

EXHIBIT "A"

RESPONSIBILITIES AND SERVICES OF CONSTRUCTION MANAGER

1.	BASIC SERVICES	A-1
2.	GENERAL PROGRAM SERVICES	A-3
3.	PRECONSTRUCTION PHASE	A-4
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EXHIBIT "A"

RESPONSIBILITIES AND SERVICES OF CONSTRUCTION MANAGER

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

1. BASIC SERVICES

- 1.1. Provide work which shall comply with professional standards and applicable requirements of federal, state, and local law.
- 1.2. Advise the District as to the regulatory agencies that have jurisdiction over the project(s), and as to coordination with and implementation of the requirements of the regulatory agencies, including without limitation the Division of the State Architect.
- 1.3. Contract for or employ, at Construction Manager's expense, sub-consultant(s) to the extent deemed necessary for Construction Manager's Services. Nothing in the foregoing shall create any contractual relationship between the District and any sub-consultant(s) employed by the Construction Manager under terms of this Agreement.
- 1.4. Cooperate with other professionals employed by the District for the design, coordination or management of other work related to the Project.
- 1.5. Chair, conduct and take minutes of periodic meetings between the District and its design professional(s) of the Site Committee meetings and of construction meetings during the course of the Project. Construction Manager shall invite the District and/or its representative to participate in these meetings. Construction Manager shall keep meeting minutes to document comments generated in these meetings, but shall not be responsible for analyzing design issues raised in said meetings.
- 1.6. Be responsible for the professional quality and technical accuracy of all cost estimates, constructability reviews, studies, reports, projections, opinions of the probable cost of construction, and other services furnished by Construction Manager under this Agreement as well as coordination with all Master Plans, studies, reports and other information provided by District to Construction Manager. Construction Manager shall, without additional compensation, correct or revise any errors or omissions in materials it generates.
- 1.7. Maintain a log of all meetings, site visits or discussions held in conjunction with the work of this Project, with documentation of major discussion points, observations, decisions, questions or comments. These shall be furnished to the District and/or its representative for inclusion in the overall Project documentation.

- 1.8. At the request of the District, develop a Management Information System ("MIS") to assist in establishing communications between the District, Construction Manager, design professional(s), construction contractor(s) and other parties on the Project. In developing the MIS, the Construction Manager shall interview the District's key personnel and others in order to determine the type of information to be managed and reported, the reporting format, the desired frequency for distribution of the various reports, the degree of accessibility by potential users, and the security protocol for the system.
- 1.9. Coordinate transmittal of documents to regulatory agencies for review and shall advise the District of potential problems in completion of such reviews.
- 1.10. Prepare a bidders list for each bid package for approval by the District.
- 1.11. Assist the District in pre-qualifying bidders if prequalification is permitted by the District. This service shall include the following:
 - 1.11.1. Preparation and distribution of prequalification questionnaires;
 - 1.11.2. Receiving and analyzing completed questionnaires;
 - 1.11.3. Interviewing possible bidders, bonding agents and financial institutions;
and
 - 1.11.4. Preparing recommendations for the District.
- 1.12. Conduct a telephonic and correspondence campaign to attempt to increase interest among qualified bidders.
- 1.13. Assist the District in preparing and placing notices and advertisements to solicit bids for the Project.
- 1.14. Coordinate the delivery of Bid Documents to the bidders. The District shall obtain the District-approved Contract Documents from the design professional(s) and the Construction Manager shall arrange for printing, binding, wrapping, and delivery to the bidders. The Construction Manager shall not be responsible for the cost of printing Bid Documents. The Construction Manager shall maintain a list of bidders receiving Contract Documents.
- 1.15. Prepare an estimate of costs for all addenda and shall submit the estimate to the District for approval. The Construction Cost Estimate and other Project costs shall be adjusted as indicated in the Agreement.
- 1.16. Provide and maintain a management team on the Project site(s).
- 1.17. Provide documentation, pictures, and other information and assistance to the District for the District's use on a website for public access to show Project status.

- 1.18. Cooperate and coordinate with the persons responsible for operation of the District's labor compliance program, if applicable.
- 1.19. Comply with any storm water management program that is approved by the District and applicable to the Project, at no additional cost to the District.
- 1.20. Ensure that all Project contractor(s), Project sub-contractor(s) and Construction Manager's sub-consultant(s) comply with any District-approved storm water management program that is applicable to the Project, at no additional cost to the District.
- 1.21. Provide direction and planning to ensure Project adherence to applicable environmental requirements such as those emanating from the Environmental Protection Agency (EPA), Cal/EPA, the California Environmental Quality Act ("CEQA"), Air Quality Management District and State of California and Regional Water Quality Control Board laws, regulations and rules. The Construction Manager shall comply with, and ensure that all contractors and their subcontractors and Design Professionals and their sub-consultants comply with, any storm water pollution prevention plans, other storm water management program and other environmental impact mitigation requirements that are approved by the District and applicable to the Project, at no additional cost to the District.
- 1.22. Construction Manager is NOT responsible for:
 - 1.22.1. Ground contamination or hazardous material analysis.
 - 1.22.2. Any asbestos testing, design or abatement; however, it shall coordinate and integrate its work with any such information provided by District.
 - 1.22.3. Compliance with the California Environmental Quality Act ("CEQA"), except that Construction Manager agrees to coordinate its work with that of any CEQA consultants retained by the District, and to provide current information for use in CEQA compliance documents.
 - 1.22.4. Historical significance report.
 - 1.22.5. Soils investigation.
 - 1.22.6. Geotechnical hazard report.
 - 1.22.7. Topographic survey, including utility locating services.
 - 1.22.8. Other items specifically designated as the District's responsibilities under this Agreement.
 - 1.22.9. As-built documentation from previous construction projects.

2. GENERAL PROGRAM SERVICES

- 2.1. **General:** Monitor and advise the District as to all material developments in the Project. Construction Manager shall develop and implement with the District approval reporting methods for schedules, cost and budget status, and projections for each project in the District's Program. The Construction Manager shall be the focal point of all communication to and from construction contractor(s) and shall be copied on all communications between the District and its design professional(s).
- 2.2. **Scheduling:** Prepare methods to track and report on schedule status for each project and for the overall Program. The Construction Manager shall develop master schedules and milestone schedules for each project, and shall report on same each month to the District. The Construction Manager shall identify missed milestones and corrective action for each missed milestone in the report to the District.
- 2.3. **Cost Controls:** Prepare and implement methods to budget and track all expenditures on each Project. The Construction Manager shall generate monthly reports to the District reflecting this information as well as forecasts to include any approved changes that impact overall Project costs.
- 2.4. **Communications to Board:** The Construction Manager may be required to attend each monthly meeting of the District's Board of Education, and to provide updates at each meeting.

3. PRECONSTRUCTION PHASE

- 3.1. Provide overall coordination of the Project; serve as the focal point of communication, transmitting information to the District and Design Team for the Project on general aspects of the Project, including planning, scheduling, cost management, progress reporting, design review, dispute resolution, and documentation. Communications from the construction contractor(s) to the District and Design Team shall be through the Construction Manager. The Construction Manager shall receive simultaneous copies of all written communications from the District or the Design Team to the construction contractor(s).
- 3.2. Develop and implement District-approved implementation procedures, forms, and reporting requirements for the Project that involve all members of the Design Team, including the District, design professional(s), and construction contractor(s).

- 3.3. Provide value engineering at the Schematic Design and/or 100% Design Development Phase. This evaluation will consist of a review of the proposed materials, equipment, systems and other items depicted in the Design Documents and shall be coordinated with the District's design guidelines and design professional(s). The Construction Manager will prepare a value engineering report will document the results of the evaluation and make recommendations to the District with respect to alternatives, deletions, or amendments of such proposed items that pertain to the anticipated construction costs, useful life, maintenance and operational costs and efficiencies. The Construction Manager shall provide to the District value engineering recommendations and cost/benefit analysis of those recommendations.
- 3.4. Perform or subcontract for constructability reviews of each Project at the Design Development Phase and at 90% Construction Documents. The Construction Manager shall review the Design Documents for clarity, consistency, constructability and coordination. The results of the review shall be provided in writing and as notations on the documents to the District. The Construction Manager shall also make recommendations to the District with respect to constructability, construction cost, sequence of construction, construction duration and separation of the contracts for various portions of the Project into categories of the work and separate bid trade packages. However, the Construction Manager is not responsible for providing, nor does the Construction Manager control, the Project design or the contents of the Design Documents. The Construction Manager's actions in reviewing the Project design and the Design Documents and in making recommendations as provided herein are advisory only to the District. The design professional(s) are not third party beneficiaries of the Construction Manager's work described in this paragraph and the design professional(s) remains solely responsible for the contents of design drawings and the Design Documents.
- 3.5. Develop master bid/award schedule(s) including construction milestones for the Project through the completion of construction, as directed by the District, in coordination with design professional(s) and advise and consult with the District. Construction Manager shall review and approve construction contractor(s)' schedules, but shall not dictate any construction contractor(s)' means and/or methods of performance.
- 3.6. Establish schedules for the soils consultant, for any hazardous materials testing and other consultants, and review costs, estimates, and invoices of each.
- 3.7. Develop and implement a management control system to support such functions as document management, planning, organizing, scheduling, budgeting, reporting progress and identifying and documenting problems and solutions for the Project. The system will allow for monthly progress reports to the District regarding the schedule for the Project.

- 3.8. Organize an initial planning workshop to create baseline parameters for the Project, to define overall building requirements, Project strategy, conceptual budget and schedule. Pursuant to understandings reached at these meetings, the Construction Manager will develop an implementation plan that identifies the various phases of the Project, coordination among phases, and budget and time constraints for each phase of the Project. The plan will include a detailed strategy, master budget and master schedule as well as identification of critical events and milestone activities.
- 3.9. Attend all planning, programming and master site planning meetings relating to the Project.
- 3.10. Provide updated cost estimates for the Project at the Schematic Design, Design Development, and Construction Documents Phase as directed by District; coordinate with design professional(s) and reconcile cost estimates with design professional(s)' estimates.
- 3.11. Advise District regarding "green building" technology and lifecycle costing, when applicable.
- 3.12. Develop a master schedule and a construction milestone schedule for the Project.

4. PRE-BID PHASE

- 4.1. Update master schedule and construction milestone schedule for the Project.
- 4.2. Construction Manager shall in consultation with the District and according to District-approved policies, procedures, and standards, implement procedures, forms, and reporting requirements for the Project. Establish, accordingly, a communications procedure for the Project that allows for decision making at appropriate levels of responsibility and accountability.
- 4.3. Work with the design professional(s) to modify or add to standard, special, or general conditions for Contract Documents that might be needed for unique Project or bid package conditions, for the District's approval.
- 4.4. Work with the design professional(s) to separate the Construction Phase for the Project into bid packages.

5. BIDDING PHASE

- 5.1. Conduct pre-bid conferences to familiarize bidders with the bidding documents, and any special systems, materials or methods and with Project procedures. Field questions from bidders, referring questions to design professional(s) and District as required. Coordinate with design professional(s)' to respond to bidder questions by addenda.

- 5.2. Prepare bid analyses and advise the District on compliance of bidders with District requirements and bid requirements. Report and recommend to the District after review and evaluation. Make recommendations to the District for prequalification of bidders and award of contracts or rejection of bids.
- 5.3. Conduct pre-award conferences with successful bidders.
- 5.4. Schedule and conduct preconstruction meetings. Maintain, prepare, and distribute minutes.

6. CONSTRUCTION PHASE

- 6.1. Administer the construction contract(s).
- 6.2. Monitor the construction contractor(s) to verify that tools, equipment, and labor are furnished and work performed and completed within the time as required or indicated by the plans and specifications, under the direction and to the satisfaction of the District. The Construction Manager expressly agrees to verify that the specifications are met, observed, performed, and followed in accordance with the professional standards of care for construction management. The Construction Manager shall not, however, be responsible for directing construction contractor(s)' means and methods.
- 6.3. Coordinate work of the construction contractor(s) and effectively manage the project to achieve the District's objectives in relation to cost, time and quality. Construction Manager shall not, however, be responsible for directing construction contractor(s)' means and methods.
- 6.4. Conduct construction meetings for the Project to discuss and resolve such matters as progress, quality and scheduling. Said meetings shall be weekly unless Project conditions do not require that frequency. Prepare and promptly distribute minutes. When required by field or other conditions, construction progress, or the quality of workmanship, conduct special construction meetings; record, prepare, and distribute minutes of these meetings to the District, the affected construction contractor(s), and design professional(s).
- 6.5. Ensure that construction contractor(s) provide construction schedules as required by their construction contracts, including activity sequences and durations, submittal schedule, or procurement schedule for products that require long lead time. The Construction Manager shall review construction contractor(s)' construction schedules for conformity with the requirements of the construction contract(s) and conformity with the overall schedule for the Project. Where construction contractor(s)' construction schedules do not so conform, the Construction Manager will take appropriate measures to secure compliance, subject to District approval.

- 6.6. Ensure construction contractor(s)' compliance with the requirements of their respective construction contracts for updating, revising, and other obligations relative to their respective construction schedules. The Construction Manager shall incorporate construction contractor(s)' construction schedule updates and revisions into the Project construction schedule.
- 6.7. Continually monitor whether construction contract requirements are being fulfilled and recommend courses of action to the District when contractor(s) fails to fulfill contractual requirements.
- 6.8. The Construction Manager may authorize minor variations in the work from the requirements of the contract documents that do not involve an adjustment in the contract price or the contract time or design and which are consistent with the overall intent of the contract documents. The Construction Manager shall provide to the design professional(s) and the District copies of these authorizations. Variation requests that result in non-compliance with any applicable specification, law, regulation, code or ordinance are not to be authorized.
- 6.9. Develop, implement, and coordinate with assistance from the District, the design professional(s), and the Project Inspector(s) ("Inspector"), procedures for the submittal, review, verification and processing of applications by contractor(s) for progress and final payments for all construction contracts.
- 6.10. Verify that safety programs are developed and submitted by each of the construction contractor(s) as required by the contract(s). Neither Construction Manager nor District shall be responsible for or have any liability for contractor(s) failure to provide, comply with, or enforce said safety programs.
- 6.11. Record the progress of the Project by a daily log.
- 6.12. Monitor ongoing Project costs to verify that projected costs do not exceed approved budget and provide the District timely notice of any potential increase in costs in excess of approved budgets provided to Construction Manager.
- 6.13. Negotiate contractor's proposals and review change orders prepared by design professional(s), with design professional(s)' input as needed, for approval by the District's governing board.
- 6.14. Maintain a change order log for the Project and implement procedures to expedite processing of change orders.
- 6.15. Implement procedures for issues identification and resolution of actual or potential claims of construction contractor(s) and take actions to mitigate all claims against the District and attempt to eliminate and/or settle all claims.
- 6.16. Assist the District in selecting and retaining special consultants and testing laboratories and coordinate their services.

- 6.17. In conjunction with the Inspector and the design professional(s), monitor work of the construction contractor(s) to determine that the work is being performed in accordance with the requirements of the respective Construction Documents. As appropriate, with assistance of design professional(s) and the Inspector, make recommendations to the District regarding special inspection or testing of work that is not in accordance with the provisions of the Contract Documents.
- 6.17.1. To guard District against defects in the work of the construction contractor(s), the Construction Manager shall establish and implement a quality control program to monitor the quality and workmanship of construction for conformity with:
- 6.17.1.1. Accepted industry standards;
- 6.17.1.2. Applicable laws, rules, or ordinances; and
- 6.17.1.3. The Design Documents and Contract Documents;
- 6.17.2. Where the work of a construction contractor does not conform as set forth above, the Construction Manager shall, with the input of design professional(s):
- 6.17.2.1. Notify the District of any non-conforming work observed by the Construction Manager;
- 6.17.2.2. Reject the non-conforming work; and
- 6.17.2.3. Take any and all action(s) necessary to compel the construction contractor(s) to correct the work.
- 6.18. Maintain logs of requests for information ("RFI") from construction contractor(s), based on information obtained from the design professional(s).
- 6.19. Establish and implement procedures, in collaboration with the District and design professional(s), for expediting the processing and approval of shop drawings, product data, samples, and other submittals for each contract. Receive and transmit all submittals from the construction contractor(s) to the design professional(s) for review and approval. Maintain submittal and shop drawing logs.
- 6.20. Record the progress of work at the Project. When present, prepare daily reports for the Project containing a record of weather, construction contractor(s) present and their number of workers, work accomplished, problems encountered, and other relevant data.

- 6.21. Prepare and distribute monthly project status reports for each active project and the Program, including updates on project activities, progress of work, outstanding issues, potential problems, schedule, and status of RFIs, change orders, and submittals.
- 6.22. Maintain at the Project site and, if necessary, at the Construction Manager's office, a current copy of all approved documents, drawings, specifications, addenda, change orders and other modifications, and drawings marked by the construction contractor(s) to record all changes made during construction. These shall include shop drawings, product data, samples, submittals, applicable handbooks, maintenance and operating manuals and instructions, and other related documents and revisions which are relevant to the contract work. Maintain records of principal building layout lines, elevations of the bottom of footings, floor levels, and key site elevations as provided by the construction contractor(s). At the completion of the Project, deliver all such records to District. Construction contractor(s) and design professional(s) share responsibility to prepare "Record Drawings" and "As-Built" documents.
- 6.23. Prepare regular status updates of master schedule and Project budget.
- 6.24. Review contractor invoices and make recommendation for approval for payment by District.

7. PROJECT COMPLETION

- 7.1. The Construction Manager shall observe, with the District's maintenance personnel, the construction contractor's check-outs of utilities, operational systems and equipment, and start-up and testing. The Construction Manager shall maintain records of start-up and testing as provided by the construction contractor(s) and shall ensure the District of compliance with applicable provisions of the contract(s), that all work has been performed and accepted, and that all systems are complete and operative.
- 7.2. At the punch list phase of the Project or designated portions thereof, the Construction Manager, in consultation with the Architect(s) and Inspector, shall ensure the preparation of a list of incomplete or unsatisfactory work or work which does not conform to the requirements of the Contract Documents ("punch list work") and a schedule for the completion of the punch list work. The Construction Manager shall provide this list to the construction contractor(s). The Construction Manager shall coordinate construction contractor(s)' performance and completion of punch list work. The Construction Manager shall review, with the Architect(s) and District, the completed punch list work. The Construction Manager shall ensure, with input of the Architect(s), that the completed punch list work complies with applicable provisions of the construction contract(s).
- 7.3. The Construction Manager shall determine, with the Architect(s) and District, when the Project or designated portions thereof are complete.

- 7.4. The Construction Manager shall conduct, with the Architect(s) and District, final inspections of the Project or designated portions thereof. The Construction Manager shall notify the District of final completion.
- 7.5. The Construction Manager shall consult with the Architect(s), Inspector and District and shall determine when the Project and the construction contractor(s)' work are finally completed. The Construction Manager shall assist with the issuance of a Certificate of Final Completion, and shall provide to the District a written recommendation regarding payment to the contractor(s).

8. FINAL DOCUMENTS

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

9. WARRANTY

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

EXHIBIT "B"

CRITERIA AND BILLING FOR EXTRA SERVICES

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

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

12. Providing any other services not otherwise included in this Agreement or not customarily furnished in accordance with generally accepted scope of program or project management practice.

The rates identified in the Fee Schedule attached to Exhibit "D1" include overhead, administrative cost and profit and shall be utilized in arriving at the fee for Extra Services.

EXHIBIT "C"

SCHEDULE OF WORK

Reference attached schedule labeled Exhibit "C"

EXHIBIT "D"

FEE SCHEDULE

Compensation

1. The Construction Manager's fee set forth in this Agreement shall be full compensation for all of Construction Manager's Services incurred in its performance, including, without limitation, all costs for personnel, travel within two hundred (200) miles of the Project location, offices, per diem expenses, printing, providing, or shipping of deliverables in the quantities set forth in Exhibit "A."
2. The amount of compensation shall be the amount set forth in the Agreement, including all billed expenses, without advance written approval of the District.

Method of Payment

1. Construction Manager shall submit monthly invoices on a form and in the format approved by the District.
2. Construction Manager shall submit these invoices in duplicate to the District via the District's authorized representative.
3. Construction Manager shall submit to District on a monthly basis documentation showing proof that payments were made to his/her/its sub-consultants.
4. Upon receipt and approval of Construction Manager's invoices, the District agrees to make payments on all undisputed amounts within sixty (60) days of receipt of the invoice.

Payment Schedule.

- 1 Construction Manager will submit monthly invoices based on the pro rata share of completion of the following phases in accordance with the following schedule based on the staffing as shown on attachment D1:
 - A. Design and DSA Approval – May 2010 through May 2011 (13 months):
\$302,029 invoiced at \$23,233 per month.
 - B. Construction Phase - June 2011 through December 2013 (31 months):
\$2,285,971 invoiced at \$73,741 per month.

Hourly Rates

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

<u>Job Title</u>	<u>Hourly Rate</u>
Principal In Charge:	No Charge
Project Executive:	Reference Exhibit D1
Project Manager	Reference Exhibit D1
Project Engineer	Reference Exhibit D1
Superintendent	Reference Exhibit D1
Constructability Review	Reference Exhibit D1
Senior Estimator	Reference Exhibit D1
Estimator	Reference Exhibit D1

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

Manhattan Beach Unified School District
 Measure BB Bond Program - Mira Costa High School
STAFFING PLAN - CONSTRUCTION MANGER - MULTI PRIME
 15-Apr-10

DESIGN, CDA, APPROVAL (18 MONTHS)

BID AWARD & CONSTRUCTION (61 MONTHS)

Staffing Summary	2010						2011						2012						2013											
	4	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Principal-in-Charge Michael Cwikins	24	48	48	48	48	48	48	48	48	48	48	48	48	48	48	48	48	48	48	48	48	48	48	48	48	48	48	48	48	48
Project Executive Jack Hill							174	174	174	174	174	174	174	174	174	174	174	174	174	174	174	174	174	174	174	174	174	174	174	174
Project Manager							174	174	174	174	174	174	174	174	174	174	174	174	174	174	174	174	174	174	174	174	174	174	174	174
Project Engineer							174	174	174	174	174	174	174	174	174	174	174	174	174	174	174	174	174	174	174	174	174	174	174	174
Superintendents							174	174	174	174	174	174	174	174	174	174	174	174	174	174	174	174	174	174	174	174	174	174	174	174
Constructability Review							160	80		160	80																			
Senior Estimator							20			20																				
Estimator							160			160																				
Monthly Totals	0	0	28	56	56	56	54	396	136	54	216	316	54	54	222	316	570	570	570	570	570	570	570	570	570	570	570	570	570	
Constructability Review							160	80		160	80																			
Senior Estimator							20			20																				
Estimator							160			160																				

Staff Cost Summary	Year 1				Year 2				Year 3				Year 4				Year 5	
	Hours	Hourly Fee	Total	Cost	Hours	Hourly Fee	Total	Cost	Hours	Hourly Fee	Total	Cost	Hours	Hourly Fee	Total	Cost	Hours	Total Cost
Principal-in-Charge Michael Cwikins	76	no charge	\$0	\$0.00	96	no charge	\$0	\$0.00	96	no charge	\$0	\$0.00	96	no charge	\$0	\$0.00	-	\$0.00
Project Executive Jack Hill	456	\$81,372	\$37,505	\$4,248	504	\$196,48	\$99,008	\$46,035	240	\$203,26	\$48,782	\$21,035	240	\$210,35	\$50,484	\$23,237	-	-
Project Manager	1320	no charge	\$0	\$0.00	1584	no charge	\$0	\$0.00	3,088	no charge	\$0	\$0.00	3,088	no charge	\$0	\$0.00	-	-
Project Engineer	820	no charge	\$0	\$0.00	1,292	no charge	\$0	\$0.00	2,088	no charge	\$0	\$0.00	2,088	no charge	\$0	\$0.00	-	-
Superintendents	1320	no charge	\$0	\$0.00	1,818	no charge	\$0	\$0.00	2,088	no charge	\$0	\$0.00	2,088	no charge	\$0	\$0.00	-	-
Constructability Review	1320	no charge	\$0	\$0.00	1,818	no charge	\$0	\$0.00	2,088	no charge	\$0	\$0.00	2,088	no charge	\$0	\$0.00	-	-
Senior Estimator	1560	\$14,790	\$22,800	\$4,340	-				-				-				-	
Estimator	1320	no charge	\$0	\$0.00	1,818	no charge	\$0	\$0.00	2,088	no charge	\$0	\$0.00	2,088	no charge	\$0	\$0.00	-	-
Subtotal	1,372		\$19,812	\$19,812	4,776		\$84,408	\$84,408	6,408		\$117,545	\$117,545	6,408		\$117,545	\$117,545	-	\$0.00
General Conditions																		
TOTAL				\$19,812			\$25,937	\$25,937			\$81,321	\$81,321			\$81,321	\$81,321		\$0.00

Staff Cost Summary	Year 1				Year 2				Year 3				Year 4				Year 5	
	Hours	Hourly Fee	Total	Cost	Hours	Hourly Fee	Total	Cost	Hours	Hourly Fee	Total	Cost	Hours	Hourly Fee	Total	Cost	Hours	Total Cost
Principal-in-Charge Michael Cwikins	116	no charge	\$0	\$0.00	248	no charge	\$0	\$0.00	364	no charge	\$0	\$0.00	364	no charge	\$0	\$0.00	-	-
Project Executive Jack Hill	640	\$127,140	\$82,544	\$17,577	790	\$172,577	\$135,357	\$21,716	1,640	\$214,716	\$351,664	\$46,441	1,640	\$214,716	\$351,664	\$46,441	-	-
Project Manager	348	\$46,980	\$162,624	\$34,500	5,394	\$702,497	\$3,782,268	\$495,811	5,762	\$751,464	\$4,340,784	\$566,464	5,762	\$751,464	\$4,340,784	\$566,464	-	-
Project Engineer	174	\$14,790	\$25,732	\$4,940	3,294	\$43,176	\$55,872	\$11,083	5,568	\$73,900	\$94,944	\$19,351	5,568	\$73,900	\$94,944	\$19,351	-	-
Superintendents	1320	no charge	\$0	\$0.00	1,818	no charge	\$0	\$0.00	2,088	no charge	\$0	\$0.00	2,088	no charge	\$0	\$0.00	-	-
Constructability Review	1320	no charge	\$0	\$0.00	1,818	no charge	\$0	\$0.00	2,088	no charge	\$0	\$0.00	2,088	no charge	\$0	\$0.00	-	-
Senior Estimator	1560	\$14,790	\$22,800	\$4,340	-				-				-				-	
Estimator	1320	no charge	\$0	\$0.00	1,818	no charge	\$0	\$0.00	2,088	no charge	\$0	\$0.00	2,088	no charge	\$0	\$0.00	-	-
Subtotal	2,158		\$32,620	\$32,620	6,254		\$109,408	\$109,408	17,196		\$218,531	\$218,531	17,196		\$218,531	\$218,531	-	\$0.00
General Conditions																		
TOTAL				\$32,620			\$109,408	\$109,408			\$218,531	\$218,531			\$218,531	\$218,531		\$0.00

EXHIBIT D1 (page 2 of 2)

Manhattan Beach Unified School District
Measure BB Bond Program - Mira Costa High School



BERNARDS GENERAL CONDITIONS - CONSTRUCTION MANAGEMENT - MULTI PRIME

4/15/2010

Temporary Facilities	PROVIDED BY			BERNARDS COST BREAKDOWN		
	Bernards	Manhattan Beach Unified School District	Contractor	Unit Cost	Qty.	Projected Costs
CH Field Office	X			\$ 1,600 /month	31	\$ 49,600
Temporary Inspector's Field Office		X		/month		\$ -
Temporary Architect's Field Office		X				\$ -
Desks, Chairs, Files, Plan Tables, Plan Racks	X			\$ 1,000 /ump sum	1	\$ 1,000
Conference Table and Chairs	X					\$ -
Telephone Service Installation		X		\$ 1,000 /ump sum	1	\$ 1,000
Cellular Telephone Service	X			\$ 200 /month	31	\$ 6,200
Telephone/Lead Line (CH/Inspector only)		X				\$ -
Telephone/Contractor			X			\$ -
Copy Machine, Maintenance (rental)	X			\$ 230 /month	31	\$ 7,130
Computers, Printers, Software and IT support	X			\$ 10,000 /ump sum	1	\$ 10,000
Fix Machines	X			\$ 150 /ump sum	1	\$ 150
Office Machine Supplies	X			\$ 100 /month	31	\$ 3,100
Office Drinking Water/Supplies	X			\$ 50 /month	31	\$ 1,550
Office Supplies/Postage/Delivery Service	X			\$ 150 /month	31	\$ 4,650
Reproduction		X		\$ 250 /month	31	\$ 7,750
Temporary Toilets (Trailers only)			X			\$ -
Temporary Toilets for Construction Workers			X			\$ -
Temporary Job Sign			X			\$ -
Bid Advertisement		X				\$ -
Bid Document Printing Costs		X				\$ -
Move-on (start of job only)	X			\$ 2,000 /ump sum	1	\$ 2,000
Intermediate Relocation (if required)		X				\$ -
Move-off (end of job only)	X			\$ 2,000 /ump sum	1	\$ 2,000
I.T. Expense (included with "Computers")	X					\$ -
Total Temporary Facilities						\$ 96,130
Jobsite Security						
Security for Site		X				\$ -
Security Alarm for Jobsite Office/Monitoring	X			\$ 100 /month	31	\$ 3,100
Jobsite Perimeter Barricading			X			\$ -
Temporary Barricades and Fencing			X			\$ -
Temporary Weatherproofing and Fencing			X			\$ -
Total Jobsite Security						\$ 3,100
Temporary Utilities (CH Field Office only)						
Power Cost - Temporary Installation Field Office	X			\$ 2,000 /ump sum	1	\$ 2,000
Power Cost - Consumption	X			\$ 600 /month	31	\$ 18,600
Water Cost - Temporary Installation	X			\$ 1,000 /ump sum	1	\$ 1,000
Water Cost - Consumption (if needed)	X			\$ 100 /month	31	\$ 3,100
Temporary Sewer Hook-up (if needed)			X			\$ -
Total Temporary Utilities						\$ 24,700
Clean-up						
Emergency Clean-up			X			\$ -
Progressive Clean-up			X			\$ -
Final Clean-up			X			\$ -
Dumpsters			X			\$ -
Total Clean-up						\$ -
Safety and First Aid						
Safety Inspections	X			\$ 250 /each	31	\$ 7,750
Ladders			X			\$ -
First Aid and Safety			X			\$ -
Fire Equipment (Fire Extinguishers)	X			\$ 200 /ump sum	1	\$ 200
Hard Hats (CH/Owner use)	X			\$ 200 /ump sum	1	\$ 200
First Aid Kits in Trailer	X			\$ 500 /ump sum	1	\$ 500
Miscellaneous Safety			X			\$ -
Total Safety and First Aid						\$ 8,650
Insurance and Bond						
Insurance, Professional Liability (included within Fee)	X					\$ -
Insurance, Builder's Risk/All Risk		X				\$ -
Insurance, General Liability (included within Fee)	X					\$ -
Total Insurance and Bond						\$ -
Total General Conditions						\$ 132,580
Monthly Rate						\$ 4,277

EXHIBIT "E"

FINGERPRINTING/CRIMINAL BACKGROUND INVESTIGATION CERTIFICATION
(Contractor)

(To be executed and submitted by the successful bidder within 10 days after notice of award.)

The undersigned does hereby certify to the governing board of the Beverly Hills Unified School District ("District") as follows:

1. That I am a representative of _____ (Contractor), currently under contract ("Contract") with the District; that I am familiar with the facts herein certified and am authorized and qualified to execute this certificate on behalf of Contractor.

2. Contractor certifies that it has taken at least one of the following actions with respect to the construction project, which is the subject of the Contract (check all that applies):

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

_____ Pursuant to Education Code section 45125.2, Contractor has installed or will install, prior to commencement of work, a physical barrier at the work site, which will limit contact between Contractor's employees and District pupils at all times; and/or

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

Dated: _____

CONTRACTOR

By: _____

Title: _____

Note: Failure to provide a signed copy of this document is cause for termination.

**MINUTES TO BE APPROVED OF THE MEASURE BB OVERSIGHT COMMITTEE
MANHATTAN BEACH UNIFIED SCHOOL DISTRICT
325 S. Peck Ave., Manhattan Beach, CA 90266
January 10, 2011
7:00 p.m.**

The Members of the Measure BB Bond Oversight Committee held its regularly scheduled meeting on Monday, January 10, 2011, at 325 S. Peck Avenue, Manhattan Beach, California. The following were present:

- | | |
|---|---|
| Members of the Committee | Ed Lear, George Reppucci, Michael Kling, Tim Lilligren (absent), Kathleen Paralusz, Rachel Vandenberg(absent), Noel Palm, Rod Spackman (absent), Tim Flake, Gary Osterhout, Robert Daviduk (absent), Kimberly Robinson & Jim Sepanek. |
| District Personnel | Steve Romines |
| Board of Trustees | Ida VanderPoorte |
| Call to Order | The meeting was called to order by Mr. Lear at 7:02 p.m. |
| Pledge of Allegiance | The Pledge of Allegiance was led by Mr. Lear. |
| Announcements and Communications | No public comments were made. |
| Presentation | <p>1. Presentation By Bernards (Construction Management Services)</p> <p>Mr. Jack Hall, Presented status report #4 (January 2011) for the Mira Costa High School Expansion and Modernization project. Mr. Hall reviewed the budget details provided in the report and confirmed that the project is still on budget.</p> <p>Mr. Hall reported that one date changed regarding schedule, that 100% of the construction documents were completed and submitted to DSA on November 3, 2010 (previously scheduled for October). Mr. Hall reported that the DSA has already begun its review and provided some comments to the documents. Mr. Reppucci asked what the term "constructibility review" meant and Mr. Hall responded that the term refers to whether what has been designed can actually be built. Mr. Hall also indicated that the constructability review may involve some cost but the primary focus is to ensure there are no design flaws that can and should be fixed before construction begins.</p> <p>Mr. Hall then discussed the financials and reported that the only change to was to the Billed To Date to add soft costs. Mr. Osterhaut asked how we capture unfixed costs and do we know if we are overbudget? Mr. Hall replied that we have fixed costs for the consultant contracts and as a result, the soft costs are on budget. Mr. Hall also reported that Bernards has anticipated what it belies will be all of the soft costs and included them in the budget.</p> <p>Mr. Hall reported that in the Pending Change Orders column, once a Change Order is approved it moves out of the Pending Change Orders column and to</p> |

the Approved Change Orders column and the reference shifts from "Projected" to "Complete". Mr. Reppucci asked whether Change Orders would be validated with a level of detail sufficient for the Bond Oversight Committee to review and evaluate. Mr. Hall responded that yes, the Change Orders would include sufficient detail.

Mr. Hall confirmed there will be an RFQ/RFP process to hire contractors. Mr. Flake asked how many contractors Bernards anticipates hiring and Mr. Hall responded that the current estimate is 30-35 contractors. Mr. Hall also reported that once a contract is awarded, each contract will be listed separately on the Financials spreadsheet.

Ms. VanderPoorte reported that the School Board has directed Mr. Romines to phase out Bernards as the Construction Manager and retain Bernards as the General Contractor. Mr. Reppucci requested that the Bond Oversight Committee receive a presentation on lease/lease-back scenarios at the next meeting. Mr. Romines and Ms. VanderPoorte explained that MBUSD is assessing whether to enter into a lease/lease-back scenario, where Bernards would own the buildings and MBUSD would lease them back until the last lease payment, after which the School District would own the buildings. Mr. Romines and Ms. VanderPoorte also stated that the lease/lease-back has some advantages, mostly to remain on budget and as Mr. Reppucci pointed out a maximum set price to be paid. Mr. Hall added that the lease/lease-back also provides increased confidence in the selection of subcontractors being hired. Specifically, he explained that it eliminates the need to accept the lowest bid and inadvertently end up over-budget. He cited the example of when a more qualified contractor with a higher bid may have fewer changes and subsequently ends up being more overall affordable than the lowest bidder.

Committee Business

Mr. Flake briefly provided an overview of the MBUSD Measure BB Oversight Committee Quarterly Report Dated September 13, 2010, including the incorporation of changes since the Committee's last report. Mr. Reppucci objected to a reference to "construction documents" in Section V.5 as specific to the documents presented to DSA. The Committee members agreed to strike the provision and refer instead to status reports provided by Bernards. Ms. Paralusz recommended changing the DSA submission date from October 18, 2010 to the actual date reported by Bernards of November 3, 2010. Ms. Paralusz also recommended that the School Board amend the Committee's bylaws to reflect that the Committee will complete a quarterly report if there are three successive monthly meetings or else periodically if the Committee does not have three successive meetings or much activity to report. The Committee also agreed to a reporting date of September 30, 2010. Mr. Osterhout moved to adopt the Quarterly Report as amended (changes to paragraphs 2 and 5 and the September 30, 2010 date). Mr. Reppucci seconded and the Quarterly Report was unanimously approved by the Bond Oversight Committee.

Mr. Osterhout moved to approve the minutes of the October 11, 2010 and Mr. Osterhout seconded. Ms. Paralusz abstained from voting because she was absent from that meeting. The remaining Committee members approved

the minutes by unanimous consent.

Public Comments

No members of the public provided comments.

Items for Future Meetings

Mr. Lear requested input from Committee members on items for future meetings.

Discussion of Audit findings. The Audit will be complete and presented to the School Board on January 19, 2011
Preparation of the next Quarterly Report
Discussion of DSA findings, which are expected in March 2011
The next regularly scheduled meeting will be held March 14, 2011.

Adjournment

Mr. Osterhout moved to adjourn the meeting at 8:07 pm, seconded by Mr. Reppucci and unanimously approved by the Bond Oversight Committee.