

## OWNER-CMAR PRE-CONSTRUCTION AGREEMENT

This Owner-CMAR Pre-Construction Agreement between the Carson City School District of 1402 W. King Street, Carson City, NV, 89703, hereinafter referred to as "Owner," and the Construction Manager at Risk named below, hereinafter referred to as "CMAR," is made and entered into as follows:

**Execution Date:** \_\_\_\_\_

**Project Identification**

CCSD Project No.:	<b>51.23.04</b>
Project Name:	<b>Remodel Bathrooms at Carson High School</b>
Project Address, City, State:	1111 North Saliman Road, Carson City, NV 89701
Labor Commission PWP No.:	CC-2024-100

**Owner and Project Manager**

Carson City School District 1402 W. King Street Carson City, Nevada 89703 (775) 283-2000 Director of Operations: Contact Number: Fax: Email:	Steven West (775) 283-2181 (office) (775) 283-2191 <a href="mailto:swest@carson.k12.nv.us">swest@carson.k12.nv.us</a>
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**CMAR and Project Contact:**

Firm Name  
Contact Name, Title  
Address  
City, State, Zip Code  
(775) Phone Number (Office)  
(775) Phone Number (Cell)  
(775) Fax Number  
Email Address

**Architect:**

Van Woert Bigotti Architects  
1400 South Virginia Street, Suite C  
Reno, NV 89502  
(775) 328-1010  
Contact: K. Brad Van Woert, III, Architect  
[bvw@vwbarchitects.com](mailto:bvw@vwbarchitects.com)  
Angela S. Bigotti-Chavez, Architect  
[abc@vwbarchitects.com](mailto:abc@vwbarchitects.com)

**ARTICLE 1 – CMAR FEE**

The Owner and the CMAR mutually agree that the fee described herein is for Pre-Construction services and providing the required Guaranteed Maximum Price Proposal only and in no manner obligates the Owner to enter into a Construction Agreement with the CMAR for furnishing the labor, materials, equipment, tools, and services required for the work:

Owner will pay and the CMAR shall receive as full compensation for Pre-Construction Services and providing the required Guaranteed Maximum Price Proposal, a total sum not to exceed:

CMAR Pre-Construction Services Fee Amount: **AMOUNT Dollars**  
**(\$XXXXXX)**

**ARTICLE 2 – INCORPORATED DOCUMENTS**

The Owner and the CMAR mutually agree that the following documents are incorporated into and made a part of this Agreement by reference:

- Exhibit A. CMAR's Proposal (*Response to the Request for Proposals*)
- Exhibit B. CMAR's Interview Submittal (*Accompanied by CMAR Fee Proposal*)
- Exhibit C. Request for Proposal (RFP) Solicitation Packet (*including Owners General Conditions of the Contract for CMAR*)

**ARTICLE 3 – AGREEMENT MODIFICATIONS**

This Agreement, including the Exhibits, Attachments and General Conditions, constitutes the entire agreement between the parties and may be modified only by a subsequent written agreement executed by both parties.

**ARTICLE 4 – CMAR PRE-CONSTRUCTION SERVICES**

In consideration of the mutual covenants and conditions provided herein, the Owner does hereby employ the CMAR to perform Pre-Construction Services, and the CMAR agrees to expeditiously perform such services for the referenced Project. The scope of the CMAR's Pre-Construction Services includes, but is not limited to the following:

1. Participation in regularly scheduled design progress review meetings with the Architect and the Owner. The CMAR shall provide ongoing input with respect to constructability, construction cost and duration, sequence of construction, and construction means and methods.
2. Conducting investigations, with participation by appropriate subcontractors, of all existing site and building conditions, and all off-site conditions as appropriate for the project.
3. Assessment and advisement regarding schedule impacts related to long lead submittals and long lead equipment procurements.
4. Development of review comments, suggestions, and cost estimates at each of the stipulated phases of design.
5. Assistance with identifying and reconciling differences between the Architect's cost estimate(s) and the CMAR's cost estimate(s).
6. Assistance with developing bid alternates as may be appropriate to accommodate the project budget and the current cost estimates.
7. Development of constructability and value engineering suggestions at each phase of design, including final CMAR constructability and value engineering suggestions based on 100% Construction Documents. CMAR constructability and value engineering suggestions shall be based on relevant first cost, life cycle cost, schedule impact, and constructability issues.

8. Development of final CMAR constructability and value engineering suggestions (based on 100% Construction Documents).
9. Qualify subcontractors and coordinate their involvement as described in Article 5 (Section VII – Project Implementation Plan) of CMAR Request for Proposals Submittal Requirements and Submission Checklist.
10. Distribution of documents to potential bidders, coordination of pre-bid conferences and bid openings, and assistance with selection of the best bids in each category.
11. CMAR advertisements, pre-qualification procedures, and contract with all Subcontractors shall be conducted in accordance with NRS Sections 338.16991 and 338.16995.  
Advertisement for subcontractor applications must comply with NRS 338.1385 (1) (a).
12. The CMAR shall develop potential bidder lists for all trades where the estimated value of the subcontract is at least 1% of the total cost of the public work, or \$50,000, whichever is greater. The completed list of Subcontractors that the CMAR intends to solicit bids from shall be provided to the Owner prior to issuing the request for proposals (RFP) to subcontractors.
13. The CMAR shall coordinate the date and time of the bid opening with the Owner to ensure that the Owner is represented at the bid opening. The CMAR shall provide the Owner with a bound copy of all documentation submitted by Subcontractors and suppliers immediately after the bid opening concludes. The bound copy shall also include the CMAR's summary tabulation of the bid results.
14. The CMAR shall review all Subcontractor proposals to determine completeness of scope, adherence to project schedule, and commitment to quality and safety before making the final recommendation to the Owner. The CMAR's recommendation shall be based on what is deemed to be the best value for the Owner.
15. Development of a GMP Proposal based on bids obtained from all necessary Subcontractors after reviewing and coordinating the bid results with the Owner. Along with the GMP Proposal, the CMAR shall submit a bound set for documents that includes all Subcontractor proposals for which the estimated value is at least 1% of the total cost of the Project, or \$50,000, whichever is greater, and narratives as necessary to describe any changes to the submitted Subcontractor proposals.

Time shall be of the essence of this Agreement and the CMAR agrees to satisfactorily complete all services and work within the time limits established in the incorporated documents. Failure to comply with the time schedule set forth in this Agreement shall be deemed adequate cause for termination of this Agreement.

#### **ARTICLE 5 – STATUTORY REQUIREMENTS & GOVERNING LAW**

The CMAR agrees to all terms and conditions of the Nevada Revised Statutes (NRS) as they apply to this Agreement and to the Work performed under this Agreement and agrees to comply with all such applicable portions of NRS. This Agreement shall be construed and interpreted according to the laws of the State of Nevada. Nevada law shall apply to the interpretation and enforcement of this Agreement. Any action permitted to be brought by either party arising out of or related to this Agreement shall be brought in a court of competent jurisdiction located in Carson City, Nevada and not elsewhere. The parties consent to the exercise of personal jurisdiction by said court.

#### **ARTICLE 6 – EXAMINATION OF DOCUMENTS**

Execution of this Agreement by each party shall constitute the representation of each party that it has fully examined the contents of this Agreement and all of the Contract Documents, and that each party has read and understands the same, and specifically agrees to be bound thereby.

**ARTICLE 7 - DISPUTE RESOLUTION**

In the event of a dispute between the Owner and the CMAR that cannot be resolved through good faith discussions between the parties, third party mediation shall be commenced and concluded utilizing a mediator acceptable to the Owner and the CMAR. Fees for mediation shall be shared equally between the Owner and the CMAR. In the event the dispute is not resolved through mediation within 30 days, the matter shall be submitted to arbitration in accordance with the Nevada Arbitration Rules, NRS Chapter 38, before an arbitrator selected by the parties, or by the presiding judge of the First Judicial District Court of the State of Nevada, in and for Carson City, in the event the parties are unable to agree. Venue for such arbitration shall be in Carson City, Nevada. The prevailing party shall be entitled to an award of attorney's fees and costs.

**ARTICLE 8 - INDEMNIFICATION**

CMAR agrees to pay, protect, indemnify, defend, and hold harmless Owner of, from, and against any all claims, demands, losses or liabilities arising or resulting from CMAR's action, inaction, and activities under this Agreement, whether for personal injury, property damage, economic harm, or otherwise.

**ARTICLE 9 - ASSIGNMENT RIGHTS**

The CMAR shall neither assign, transfer, nor delegate any rights, obligations, monies or duties under this Agreement without the prior written consent of the Owner.

**ARTICLE 10 - OWNERSHIP AND USE OF DOCUMENTS**

Any drawings, reports, studies, photographs, negatives, or other documents prepared by the CMAR in the performance of its obligations under this Agreement shall be the exclusive property of the Owner and all such materials shall be remitted to the Owner by the CMAR upon completion, termination, or cancellation of this Agreement. The CMAR shall not use, willingly allow, or cause to have such materials used for any purpose other than the performance of the CMAR's obligations under this Agreement, without the prior written consent of the Owner.

**ARTICLE 11 - INDEPENDENT CONTRACTOR**

The parties agree that the CMAR is an independent contractor and that this Agreement is entered into in accordance with NRS Section 284.173, which in pertinent part provides that the CMAR is not a Carson City School District employee and that the CMAR or contract personnel are not entitled to benefits otherwise provided to employees of the Owner, including, but not limited to medical, dental, or other personal insurance, retirement benefits, unemployment benefits or liability or worker's compensation insurance.

**ARTICLE 12 - FAIR EMPLOYMENT PRACTICES**

As outlined in NRS 613.330, in connection with the performance of work under this Agreement, the CMAR agrees not to discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, sexual orientation, gender identity or expression, or age. Such agreement shall include, but not be limited to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The CMAR further agrees to insert this provision in all subcontracts hereunder, except subcontracts for standard commercial supplies or raw materials. Any violation of such provision by the CMAR shall constitute a material breach of this Agreement.

**ARTICLE 13 - INSURANCE PROVISIONS**

A Certificate of Liability Insurance evidencing the required coverage, as stipulated in the attached Insurance Addendum, shall be provided to and reviewed by Owner prior to the CMAR mobilization onto the project site and prior to commencement of any work or services by CMAR on the Project.

**ARTICLE 14 - PAYMENT SCHEDULE**

Payment for pre-construction services will be made in accordance with the following schedule:

Schematic Design Phase	10% of Total
Design Development Phase	20% of Total
50% Construction Documents	20% of Total
100% Construction Documents	20% of Total
Submittal of GMP Proposal	20% of Total
Submittal of Final CMAR Review Comments	10% of Total

**ARTICLE 15 - TERMINATION**

Owner may terminate this Agreement, with or without cause, by giving written notice to CMAR. In the event of termination without cause, CMAR shall be entitled to payment for work completed and accepted by Owner as satisfactory to the date of termination.

**ARTICLE 16 - APPLICABLE LAW**

This Agreement shall be construed and interpreted according to the laws of the State of Nevada.

**ARTICLE 17 - ENTIRE AGREEMENT**

This Agreement set forth the entire Agreement and understanding between the parties and it may be amended only by a written agreement signed by the parties subsequent to the date hereof.

**ARTICLE 18 - WAIVER**

No waiver of any terms or provisions of this Agreement shall be binding unless in writing, signed by the party to be charged. A waiver on one occasion shall not be deemed or construed as a waiver on a second or further violation or breach.

**ARTICLE 19 - NOTICES**

Any notice required or permitted hereunder shall be in writing and be deemed given when personally delivered or mailed to the party at the address given on the first page of this Agreement, and in the case of mailing, the notice shall be deemed complete three days after the notice is deposited in the U.S. Mail, certified, with a return receipt requested.

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement.

**Carson City School District**

By: \_\_\_\_\_  
Andrew Feuling, Superintendent

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

**Construction Manager at Risk:**

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

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

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

Company: company name \_\_\_\_\_

License No. \_\_\_\_\_