"Construction manager-at-risk method" is a delivery method by which the College District contracts with an architect or engineer for design and construction phase services and contracts separately with a construction manager-at-risk to serve as the general contractor and to provide consultation during the design and construction, rehabilitation, alteration, or repair of a facility. *Gov't Code 2267.251(a)*

A construction manager-at-risk is a sole proprietorship, partnership, corporation, or other legal entity that assumes the risk for construction, rehabilitation, alteration, or repair of a facility at a contracted price as a general contractor and provides consultation to the College District regarding construction during and after the design of the facility. The contracted price may be a guaranteed maximum price. *Gov't Code 2267.251(b)*

The College District may use the construction manager-at-risk method for the construction, rehabilitation, alteration, or repair of a facility. In using this method, the College District must comply with applicable legal requirements in this policy as well as other applicable legal requirements [see CM(LEGAL)], which include the following steps:

1. SELECTING A CONTRACTING METHOD;
2. Giving PUBLIC NOTICE of the project;
3. Publishing CONTRACT SELECTION CRITERIA;
4. MAKING EVALUATIONS PUBLIC after the contract is awarded; and
5. Providing for INSPECTION, VERIFICATION, AND TESTING necessary for acceptance of the facility by the College District.

Education Code 44.031(g); Gov't Code 2267.052, .055, .056(a), (c), .058, .251(c)

Note: Terms in all capital letters, above, point to margin notes in the referenced policy.

ARCHITECT / ENGINEER

On or before the selection of a construction manager-at-risk, the College District shall select or designate an architect or engineer to prepare the construction documents for the project. *Gov't Code 2267.252(a)* [See CM]

The College District's architect or engineer for a project may not serve, alone or in combination with another, as the construction manager-at-risk unless the architect or engineer is hired to serve

as the construction manager-at-risk under a separate or concurrent procurement conducted in accordance with Government Code Chapter 2267, Subchapter F, which does not prohibit the architect or engineer from providing customary construction phase services under the architect's or engineer's original professional service agreement in accordance with applicable licensing laws. *Gov't Code 2267.252(b)*

SELECTION PROCESS

The College District shall select the construction manager-at-risk in either a one-step or two-step process.

The College District shall prepare a single request for proposals, in the case of a one-step process, and an initial request for qualifications in the case of a two-step process that includes:

1. A statement as to whether the selection process is a one-step or two-step process;
2. General information on the project site, project scope, schedule, selection criteria, and the weighted value for each criterion, and estimated budget and the time and place for receipt of the proposals or qualifications; and
3. Other information that may assist the College District in its selection of a construction manager-at-risk.

The College District shall state the selection criteria in the request for proposals or qualifications.

If a one-step process is used, the College District may request, as part of the offeror's proposal, proposed fees and prices for fulfilling the general conditions. If a two-step process is used, the College District may not request fees or prices in step one. In step two, the College District may request that five or fewer offerors, selected solely on the basis of qualifications, provide additional information, including the construction manager-at-risk's proposed fee and its price for fulfilling the general conditions.

Gov't Code 2267.253(a)–(e)

OPENING AND EVALUATING PROPOSALS

At each step, the College District shall receive, publicly open, and read aloud the names of the offerors. At the appropriate step, the College District shall also read aloud the fees and prices, if any, stated in each proposal as the proposal is opened. Not later than the 45th day after the date on which the final proposals are opened, the College District shall evaluate and rank each proposal submitted in relation to the criteria set forth in the request for proposals. *Gov't Code 2267.253(f)–(g)*

SELECTION

The College District shall select the offeror that submits the proposal that offers the best value for the College District based on the published selection criteria and on its ranking evaluation. The College District shall first attempt to negotiate a contract with the selected offeror. If the College District is unable to negotiate a satisfactory contract with the selected offeror, the College District shall, formally and in writing, end negotiations with that offeror and proceed to negotiate with the next offeror in the order of the selection ranking until a contract is reached or negotiations with all ranked offerors end. *Gov't Code 2267.254(a)–(c)*

NOTICE OF RANKINGS

Not later than the seventh day after the date the contract is awarded, the College District shall make the proposal rankings public. *Gov't Code 2267.254(d)*

TRADE CONTRACTORS / SUBCONTRACTORS

A construction manager-at-risk shall publicly advertise for bids or proposals and receive bids or proposals from trade contractors or subcontractors for the performance of all major elements of the work other than the minor work that may be included in the general conditions. A construction manager-at-risk may seek to perform portions of the work itself if:

1. The construction manager-at-risk submits its bid or proposal for those portions of the work in the same manner as all other trade contractors or subcontractors; and

2. The College District determines that the construction manager-at-risk's bid or proposal provides the best value for the College District.

Gov't Code 2267.255

BIDS OR PROPOSALS

The construction manager-at-risk shall review all trade contractor or subcontractor bids or proposals in a manner that does not disclose the contents of the bid or proposal during the selection process to a person not employed by the construction manager-at-risk, architect, engineer, or College District. All bids or proposals shall be made available to the College District on request and to the public after the later of the award of the contract or the seventh day after the date of final selection of bids or proposals. *Gov't Code 2267.256(a)*

If the construction manager-at-risk reviews, evaluates, and recommends to the College District a bid or proposal from a trade contractor or subcontractor, but the College District requires another bid or proposal to be accepted, the College District shall compensate the construction manager-at-risk by a change in price, time, or guaranteed maximum cost for any additional cost and risk that the construction manager-at-risk incurs because of the College

District's requirement that another bid or proposal be accepted. *Gov't Code 2267.256(b)*

If a selected trade contractor or subcontractor defaults in the performance of its work or fails to execute a subcontract after being selected in accordance with this policy, the construction manager-at-risk may itself fulfill, without advertising, the contract requirements or select a replacement trade contractor or subcontractor to fulfill the contract requirements. *Gov't Code 2267.257*

PAYMENT AND PERFORMANCE BOND AMOUNTS

If a fixed contract amount or guaranteed maximum price has not been determined at the time the contract is awarded, the penal sums of the performance and payment bonds delivered to the College District must each be in an amount equal to the project budget, as specified in the request for proposals or qualifications. The construction manager shall deliver the bonds not later than the tenth day after the date the construction manager-at-risk executes the contract, unless the construction manager-at-risk furnishes a bid bond or other financial security acceptable to the College District to ensure that the construction manager will furnish the required performance and payment bonds when a guaranteed maximum price is established. *Gov't Code 2267.258* [See CM for more information on payment and performance bonds]