A “construction manager-agent” is a sole proprietorship, partnership, corporation, or other legal entity that serves as the agent for the District by providing consultation or administrative services during the design and construction phase and managing multiple contracts with various construction prime contractors for construction, rehabilitation, alteration, or repair of a facility. The District may retain a construction manager-agent only as provided by Government Code Chapter 2267, Subchapter E. The contract between the District and the construction manager-agent may require the construction manager-agent to provide administrative personnel, equipment necessary to perform duties under this policy, on-site management, and other services specified in the contract. *Gov’t Code 2267.201–.202*

A construction manager-agent may not:

1. Self-perform any aspect of the construction, rehabilitation, alteration, or repair of the facility.
2. Be a party to a construction subcontract for the construction, rehabilitation, alteration, or repair of the facility.
3. Provide or be required to provide performance and payment bonds for the construction, rehabilitation, alteration, or repair of the facility.

Gov’t Code 2267.203

A construction manager-agent represents the District in a fiduciary capacity. *Gov’t Code 2267.204*

The District may use the construction manager-agent method for the construction, rehabilitation, alteration, or repair of a facility. In using this method, the District must comply with applicable legal requirements in this policy as well as other applicable legal requirements [see CV(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 District.

Education Code 44.031(g); Gov’t Code 2267.052, .055, .056(a), (c), .058, .201(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-agent, the District shall select or designate an architect or engineer in accordance with Occupations Code Chapter 1051 or 1001, as applicable, to prepare the construction documents for the project. *Gov't Code 2267.205(a)* [See CV]

The District's architect or engineer may not serve, alone or in combination with another person, as the construction manager-agent unless the architect or engineer is hired to serve as the construction manager-agent under a separate or concurrent selection process conducted in accordance with this policy. The District's architect or engineer is not prohibited by this policy 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 2267.205(b)*

To the extent that the construction manager-agent's services are defined as part of the practice of architecture or engineering under Occupations Code Chapter 1051 or 1001 those services must be conducted by a person licensed under the applicable chapter. *Gov't Code 2267.205(c)*

SELECTION OF CONSTRUCTION MANAGER-AGENT

The District shall select a construction manager-agent on the basis of demonstrated competence and qualifications in the same manner that an architect or engineer is selected under Government Code 2254.004. *Gov't Code 2267.207* [See CV]

INSURANCE

The construction manager-agent shall maintain professional liability or errors and omissions insurance in the amount of at least $1 million for each occurrence. *Gov't Code 2267.208*

SELECTION OF CONTRACTORS

If the District is using the construction manager-agent method, the District shall procure, in accordance with applicable law and in any manner authorized by Government Code Chapter 2267, a general contractor or trade contractors who will serve as the prime contractor for their specific portion of the work and provide performance and payment bonds to the District in accordance with applicable laws. *Gov't Code 2267.206*