



County of Monterey

Item No.5

Board Report

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

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- a. Support a finding that the proposed action is not a project as defined by the California Code of Regulations (CCR) California Environmental Quality Act (CEQA) Guidelines Section 15378 because it consists of an organizational or administrative activity that will not result in direct or indirect physical changes in the environment and said action does not have a direct physical change on the environment nor a reasonably foreseeable indirect physical change on the environment;
- b. Support the creation of a Construction Manager At-Risk (CMAR) Project Delivery Program for the County of Monterey (County) allowed pursuant to California Public Contract Code (PCC) Section 20146;
- c. Support the CMAR Project Delivery Program Policy Guidelines developed in accordance with Section 20146 of the Public Contract Code;
- d. Support utilization of CMAR Contracts for the erection, construction, alteration, repair, or improvement of any infrastructure, excluding roads, and including, but not limited to, buildings, utility improvements associated with buildings, flood control and underground utility improvements, and bridges, owned or leased by the County;
- e. Support utilization of CMAR Contracts for projects in the County in excess of one million dollars (\$1,000,000);
- f. Support the award of CMAR Contracts using the best value method to a construction manager at-risk entity that possesses or that obtains sufficient bonding to cover the contract amount for construction services and risk and liability insurance as may be required by the County of Monterey.
- g. Support authorizing the Director of Public Works Facilities and Parks (PWFP) or Director's designee to administer and utilize the CMAR Project Delivery Program for Capital Improvement Projects in accordance with Section 20146 of the Public Contract Code;

RECOMMENDATION:

It is recommended that the Capital Improvement Committee support a recommendation to the Board of Supervisors to:

- a. Find that the proposed action is not a project as defined by the California Code of Regulations (CCR) California Environmental Quality Act (CEQA) Guidelines Section 15378 because it consists of an organizational or administrative activity that will not result in direct or indirect physical changes in the environment and said action does not have a direct physical change on the environment nor a reasonably foreseeable indirect physical change on the environment;
- b. Approve the creation of a Construction Manager At-Risk (CMAR) Project Delivery Program for the County of Monterey (County) allowed under California Public Contract Code - PCC § 20146;
- c. Approve the CMAR Project Delivery Program Policy Guidelines developed in accordance with Section 20146 of the Public Contract Code;

- d. Authorize utilization of CMAR Contracts for the erection, construction, alteration, repair, or improvement of any infrastructure, excluding roads, and including, but not limited to, buildings, utility improvements associated with buildings, flood control and underground utility improvements, and bridges, owned or leased by the County;
- e. Authorize utilization of CMAR Contracts for projects in the County in excess of one million dollars (\$1,000,000);
- f. Approve the award of CMAR Contracts using the best value method to a construction manager at-risk entity that possesses or that obtains sufficient bonding to cover the contract amount for construction services and risk and liability insurance as may be required by the County of Monterey.
- g. Authorize the Director of Public Works Facilities and Parks (PWFP) or Director's designee to administer and utilize the CMAR Project Delivery Program for Capital Improvement Projects in accordance with Section 20146 of the Public Contract Code;

SUMMARY:

In early 2025, Public Works, Facilities and Parks (PWFP), in collaboration with its construction manager consultant, Harris and Associates, evaluated alternative project delivery methods beyond the County's current use of Design-Bid-Build (DBB) and Job Order Contracting (JOC). The objective was to identify more efficient strategies for design, procurement, and implementation of large Capital Improvement Projects including the County of Monterey Health Services Campus Master Plan Project in Salinas. As a result of this evaluation, the Construction Manager At-Risk (CMAR) project delivery method was identified as a viable alternative authorized for counties under California Public Contract Code Section 20146 (Attachment A). While Counties throughout California may use CMAR, the law requires that the Board of Supervisors must approve and authorize its use for the erection, construction, alteration, repair, or improvement of any building owned or leased by the County. CMAR cannot be used for road projects.

CMAR is a project delivery method where a construction manager (CMAR Contractor) provides pre-construction services and then acts as the general contractor, taking on the risk for delivering the project within a Guaranteed Maximum Price (GMP). Key advantages of CMAR include continuous cost estimating, improved value engineering, faster scheduling through fast-tracking, and the creation of a collaborative team environment. Early CMAR Contractor involvement and collaboration is key for this delivery process to be successful. Before the construction can begin on a project, the County and the CMAR Contractor must agree on the project's GMP. The CMAR Contractor is responsible for delivering the project within the agreed upon price, thereby assuming the risk for cost-overruns.

PWFP staff recommend that the CIC and BOS approve the CMAR Project Delivery Program which will enable the County of Monterey to continue to deliver well designed, properly phased, and cost-effective Capital Improvement Projects throughout the County.

DISCUSSION:

The CMAR project delivery method was first authorized under California law on October 3, 2013, when Governor Jerry Brown signed Senate Bill No. 328. This bill was later codified as Public Contract Code Section 20146. This legislation initially permitted counties to use CMAR for building projects exceeding \$1 million, allowing them to award contracts based on either the lowest responsible bidder or the best value method. The CMAR project delivery method has been available to counties in

California for twelve years, and it is a well-established and proven project delivery method. Several counties in California are currently using the CMAR Program such as San Luis Obispo, San Diego, Orange, and San Mateo Counties.

In the CMAR project delivery method, the County will independently hire the architect and engineer (A/E) of record and the CMAR Contractor in the early design stages of the project. The CMAR Contractor will participate in the design process with the County and A/E advising on budgets, constructability, cost efficiencies that can be designed into the project and how packages for subcontracting may be divided. The Public Contract Code Section 20146 allows all public entities like the County to utilize this project delivery method as it makes use of the selection of professional consultants and bidding of construction work easier. Attachments C and D illustrate the CMAR Structure and Flow-Chart in further detail.

The risk of error and omission is greatly reduced through the CMAR project delivery method due to the early involvement of the CMAR Contractor in the project. The construction documents need to be complete enough for a building permit to be issued as the CMAR Contractor is responsible to provide a functioning facility. The more complete the bid and construction documents are, the more competitive the bids on the trades' bid packages will be, therefore resulting in a cost-effective project. This project delivery method can be employed on most Capital Improvement Projects. One of the key benefits of CMAR is that it provides counties greater control over the selection of the A/E and CMAR Contractor, and this ensures counties have greater control over the selection of consultants with relevant experience in a specific building type or trade. CMAR also provides greater flexibility in the evolution of design and construction efficiencies in the early stages of project development. Attachment E compares the advantages and disadvantages of CMAR and the two existing procurement programs currently used by the County, Job Order Contracting (JOC) and Design-Bid-Build (DBB). CMAR cannot be used for road projects.

CMAR Bidding Process

Under the CMAR Project Delivery Program, subcontracts are publicly bid out and awarded to the lowest responsible bidder by the CMAR Contractor in collaboration with the County. Upon completion of its subcontractor bidding activities, the CMAR Contractor provides the GMP to the County based upon their initial fee for service; plus, the subcontracts; and any division of risk and responsibilities the Owner and CMAR have agreed upon. At award of the Guaranteed Maximum Price (GMP) by the Board of Supervisors, the CMAR Contractor assumes the role of the General Contractor for the project and is responsible for overseeing construction of the project. The Architect/Engineer (A/E) would assist the County, and is a representative of the County, throughout the entire project. The CMAR Contractor has a responsibility to the County through the bidding and construction phase of the project.

Public Contract Code Section 20146 allows Counties to select a CMAR Contractor based on either the lowest responsible bidder or the best value method. PWFP recommends that the County select CMAR Contractors under the best value method. Under this methodology, the County would select the best CMAR contractor based on follow five (5) key criteria: experience and qualifications, price, project plan, safety record and safety plan, and financial strength. This methodology will ensure the County selects CMAR Contractors who offer the most advantageous combination of performance,

risk reduction, and overall value, which often leads to better results and fewer issues over the life cycle of a project which includes initiation, planning, execution, monitoring and control and closure.

An additional item that the County must consider for the CMAR Project Delivery Program is the Project Labor Agreement requirement under Public Contract Code Section 20146. Counties have three viable options to accomplish this key requirement:

1. The county or public entity has entered into a project labor agreement that will bind all contractors and subcontractors performing work on the project or contract to use a skilled and trained workforce, and the construction manager at-risk entity agrees to be bound by that project labor agreement.
2. The project or contract is being performed under the extension or renewal of a project labor agreement that was entered into by the county or public entity before January 1, 2018.
3. The construction manager at-risk entity has entered into a project labor agreement that will bind the entity and all its subcontractors at every tier performing the project or contract to use a skilled and trained workforce.

For the County, the most viable option to meet this key requirement under Public Contract Code Section 20146 is to follow the third option given that the County does not have an existing Project Labor Agreement in place. Through the third option, the CMAR Contractor enters into a Project Labor Agreement (PLA) and that will bind the County and all its subcontractors at every tier performing the project or contract to use a skilled and trained workforce for any given Capital Improvement Project.

Given the complexity of the CMAR Project Delivery Program, the Director of Public Works, Facilities, and Parks (PWFP) or Director's designee will be the Program Administrator. The PWFP Director or Director's designee will be responsible for determining which Capital Improvement Projects should be constructed following this project delivery method. PWFP staff and project manager will execute CMAR projects as indicated in the attached County of Monterey CMAR Project Delivery Program Policy Guidelines (Attachment D).

The recommended action consists of an organizational or administrative activity that will not result in direct or indirect physical changes in the environment. In accordance with the California Environmental Quality Act (CEQA), the recommended action is not a project because it does not have a direct physical change on the environment nor a reasonably foreseeable indirect physical change on the environment.

Staff recommends that the Capital Improvement Committee support a finding that the proposed action is not a project as defined by the California Code of Regulations (CCR) CEQA Guidelines Section 15378.

Overall, the CMAR project delivery method is a well-established program that has been in place for over twelve years pursuant to California Public Contract Code Section 20146. It offers many advantages with few disadvantages to the County. Staff recommends that the Capital Improvement

Committee support this alternative project delivery method as an additional tool for PWFP to continue to deliver well-designed, properly phased, and cost-effective projects throughout the County.

OTHER AGENCY INVOLVEMENT:

The Office of the County Counsel-Risk Management Office has reviewed and approved the CIC report and the attached CMAR program documents as to form and insurance/indemnification provisions, respectively. The Office of the Auditor-Controller has reviewed and approved the CMAR Project Delivery Program - Policy Guidelines as to fiscal provisions. PWFP staff have also consulted on this report and the CMAR project delivery method with other counties including San Mateo and San Diego.

FINANCING:

This board action does not have a financial impact on the County's General Fund or Fiscal Year 2025-26 budget.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

Establishing a Construction Manager At-Risk Project Delivery Program for the County of Monterey will provide County staff with an additional tool to continue to deliver well design and cost-effective projects. The recommended action supports the following Board of Supervisors' Strategic Initiatives:

- ☐ Economic Development
- ☒ Administration
- ☐ Health & Human Services
- ☒ Infrastructure
- ☐ Public Safety

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Attachments:

Attachment A - Public Contract Code - PCC § 20146

Attachment B - Construction Manager At-Risk Structure

Attachment C - Construction Manager At-Risk Flow Chart

Attachment D - Advantages - Disadvantages of JOC, DBB, & CMAR Programs

Attachment E - CMAR Project Delivery Program Policy Guidelines