

OAKLAND CITY COUNCIL

ORDINANCE NO. _____ C.M.S.

ORDINANCE AMENDING THE CONSTRUCTION MANAGER-AT-RISK PROJECT DELIVERY METHOD ORDINANCE (ORDINANCE NO. 12388 C.M.S.) TO INCLUDE CONSTRUCTION MANAGER/GENERAL CONTRACTOR PROJECT DELIVERY

WHEREAS, the successful delivery of capital projects in accordance with the City's Capital Improvement Program delivers direct and lasting benefits to Oaklanders; and

WHEREAS, the City has established and utilized other alternative delivery methods for the successful delivery of capital projects, including Construction Manager At-Risk, which is similar to Construction Manager/General Contractor project delivery; and

WHEREAS, the City of Oakland's Department of Transportation has received more grant funds than ever before to deliver the City's largest capital projects that require the use of innovative delivery methods to successfully implement projects while meeting aggressive grant deadlines; and

WHEREAS, the Construction Manager/General Contractor capital project delivery method offers a number of benefits to deliver large, complex infrastructure projects, including faster delivery, lower costs, the identification and resolution of construction challenges during the design phase, and fewer construction claims; and

WHEREAS, under the Construction Manager/General Contractor project delivery method three separate scopes of services and budgets will be developed to bring consultants/contractors onto the project team early in the design process through the following requests for proposals/qualifications; first, a general contractor firm to provide professional services including, but not limited to, informing the constructability and sequencing of a project and developing strategies to segment the project in a manner that minimizes community impacts and meets required delivery deadlines; second, an independent cost estimator to independently prepare cost estimates and negotiate any cost differences between the designer's engineer estimate and the general contractor's estimate; and third, a construction management team to perform construction management activities during the design phase and manage the construction process on behalf of the City of Oakland.

WHEREAS, at the 95% design milestone the general contractor, the City, and an independent cost estimator must agree on the construction costs. Upon agreement, staff brings a construction contract to City Council for approval and construction activities can begin in an abbreviated timeline. The City always retains the right to formally bid the construction contract if the City and the general contractor cannot agree on the project construction cost(s); and

WHEREAS, this ordinance establishes Construction Manager/General Contractor procedures and is not authorizing a specific project to employ Construction Manager/General Contractor project delivery, and thus there is no impact to the General Purpose Fund nor are any funds being requested; and

WHEREAS, the City's Local and Small Local Business Enterprise (L/SLBE) Program will apply to all resulting contracts, unless prohibited by requirements of funding of the project; and

WHEREAS, City Council will approve all relevant future contracts in accord with the City of Oakland's Purchasing Ordinance; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

SECTION 1. Recitals: The City Council of the City of Oakland hereby determines that the preceding recitals are true and correct and an integral part of the Council's decision to enact this legislation, and hereby adopts and incorporates them into this Ordinance.

SECTION 2. Amendment of Section 2.04.190 of Oakland Municipal Code. Section 2.04.190 of the Oakland Municipal Code is amended as set forth below (additions are shown as double underline and deletions are shown as ~~striketrough~~).

2.04.190 - Construction manager-at-risk and Construction Manager/General Contractor project delivery method.

The City may use the alternative project delivery methods commonly known as "construction manager-at-risk" or "Construction Manager/General Contractor" (CM/GC) with or without formal bidding when it is in the "best interests of the City" to waive formal bidding pursuant to Section 2.04.050. The City Administrator, or the City Administrator's designee, will prepare and publish an administrative instruction, that will contain guidelines for the use of such alternative project delivery methods. These guidelines will provide the criteria and procedures for alternative project delivery methods such as construction manager-at-risk and "Construction Manager/General Contractor" (CM/GC).

SECTION 3. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Chapter. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, clause or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional.

SECTION 4. Effective Date. This ordinance shall become effective immediately on final adoption if it receives six or more affirmative votes; otherwise it shall become effective upon the seventh day after final adoption.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES – FIFE, GALLO, JENKINS, KALB, KAPLAN, RAMACHANDRAN, REID, AND
PRESIDENT FORTUNATO BAS

NOES –

ABSENT –

ABSTENTION –

ATTEST: _____
ASHA REED
City Clerk and Clerk of the Council of the
City of Oakland, California

Date of Attestation: _____

NOTICE AND DIGEST

**ORDINANCE AMENDING THE CONSTRUCTION MANAGER-AT-RISK
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