

**MINUTES**  
**REGULAR WORKSESSION**  
CITY COUNCIL OF THE CITY OF YUMA, ARIZONA  
CITY COUNCIL CHAMBERS - YUMA CITY HALL  
ONE CITY PLAZA, YUMA, ARIZONA  
**October 2, 2018**  
**6:00 p.m.**

**CALL TO ORDER**

**Mayor Nicholls** called the Regular City Council Worksession to order at 6:16 p.m.

Councilmembers Present: Shelton, Watts, Thomas, Knight, McClendon (telephonic), and Mayor Nicholls  
Councilmembers Absent: Miller  
Staffmembers Present: City Administrator, Gregory K. Wilkinson  
City Engineer/Director of Engineering, Jeff Kramer  
Chief of Police, John Lekan  
Human Resources Director, Monica Welch  
Finance Director, Lisa Marlin  
Director of Parks and Recreation, Debbie Wendt  
Various department heads or their representatives  
City Attorney, Richard W. Files  
City Clerk, Lynda Bushong

**I. OVERVIEW OF CONSTRUCTION MANAGER AT RISK SERVICES**

**Kramer** introduced Dr. Wylie Bearup and Dr. Mounir El Asmar, professors at the Arizona State University Del E. Webb School of Construction. Dr. Bearup specializes in Public Works Construction and Construction Methods and has delivered over \$8 million worth of projects in place using those methods, and Dr. El Asmar has been published over 100 times based on his research into project delivery methods and his expertise on the subject.

**Bearup** stated that Construction Manager at Risk (CMAR) is one of four project delivery methods that are available to public agencies in the State of Arizona, as authorized by the Arizona Revised Statutes, in addition to Design Bid Build (DBB), Design Build (DB), and Job Order Contracting (JOC). Mature project delivery programs use all of these methods, with the chosen method predicated on the needs of the particular project. DBB is very effective for projects that can be detailed very thoroughly using plans and specifications, while DB is used when there is a project with a very short deadline. CMAR has been used successfully on complex projects with numerous options and opportunities for the contractor to be involved in the design phase and bring value to the project with that early involvement. JOC is a method that is very effective at cutting down administrative costs.

Many public agencies that sought to convert to alternative project delivery methods based their decision on a study done in the late 90s at Penn State that compared DBB to DB and CMAR and found that across the board DB generally produced better results than DBB, with CMAR coming in a close second. A study completed in 2015 found three critical success factors for projects: early involvement of the contractor, qualification-based selection of the core team, and transparency in cost accounting. All three of these factors

are available through CMAR. There has been a steady increase in the use of CMAR across the country due to its ability to deliver better quality projects that are completed on time and on budget with more predictable outcomes. With DBB, a contractor can bid on a project whether or not they have done that type of project before, and typically state law requires the selection of the contractor with the lowest bid price. The ability to engage in qualifications-based selection with CMAR is the key to these better results.

#### Delivery Methods & Project Types

Method	Project Type
Design Bid Build	Typical street improvements, storm drains, water/sewer lines
Design Build	Fast-tracked projects, speed premium
CMAR	Buildings, water/wastewater & aviation facilities, complex horizontal jobs
Job Order Contracts	Renovation, remodel, small new construction <\$2m

The City of Phoenix utilizes a variety of delivery methods, selecting the method with the highest probability of success for each project. Of the 11,365 projects completed between Fiscal Years 2001 and 2015, only 3% or 366 were completed using CMAR. However, those 366 projects equated to nearly 50% of the dollars spent on all projects because it was the larger projects that were being completed with CMAR. Traditional DBB still has its place, with over 30% of the projects being completed using that delivery method. JOC, which was used for over 60% of the projects during that time period, used only 13% of the dollars spent on projects, so a lot of small projects were getting done very quickly and efficiently using JOC.

#### City of Phoenix Project Delivery Experience

Method	Projects		Amount	
	Number	%	Total	%
Design Build	83	1%	\$889M	10%
Construction Manager at Risk	366	3%	\$3,980M	46%
Design Bid Build	3,926	34%	\$2,669M	31%
Job Order Contracting	6,990	62%	\$1,127M	13%
Totals	11,365	100%	\$8,665M	100%

*Fiscal Years 2001 through 2015*

The City of Mesa conducted research that indicated that CMAR had significantly lower cost growth than DBB and JOC. Cost growth is how much more a project costs to complete than had originally been budgeted for that project. The cost growth percentage of 0.73% that the City of Mesa saw in 2016 and 2017 for CMAR is roughly one-third of that which was seen with DBB and JOC. The City of Phoenix saw slightly different results, but still achieved significant cost savings using CMAR

City of Mesa Project Delivery Experience			
Full Project Costs		Cost Growth Amount	Cost Growth Percentage
Construction Manager At Risk (CMAR)			
2016	\$45,985,970	\$190,717	
2017	\$20,223,983	\$293,686	
Total	\$66,209,953	\$484,403	<b>0.73%</b>
Design Bid Build (DBB)			
2016	\$15,756,676	-\$20,675	
2017	\$6,311,431	\$519,530	
Total	\$22,068,107	\$498,855	<b>2.26%</b>
Job Order Contracting (JOC)			
2016	\$21,091,282	\$549,945	
2017	\$11,439,247	\$148,951	
Total	\$32,530,529	\$698,896	<b>2.15%</b>
All Methods			
Total	\$120,808,589	\$1,682,154	<b>1.39%</b>
<i>Cost growth relative to original contract value (2016 &amp; 2017)</i>			

**Bearup** provided several examples of how early involvement of the contractor in the design of a project can save time and money. One example is the Cordes Junction interchange, where State Route 69 intersects with Interstate 17 (I-17). The Arizona Department of Transportation had planned to have I-17 elevated over the local roads, but the contractor, suggested depressing the main line and elevating the local roads instead. This change saved \$2 million dollars on the earthwork alone, and eliminating phased bridge construction saved an additional \$600,000 and 2 months of construction time.

**El Asmar** began by stating that he has been fortunate to work on some of the research that has benchmarked the value of CMAR, both locally and nationally and is eager to share that research today. The traditional DBB system is sometimes considered wasteful for several reasons. First of all, there are two different contracts: one with the architect or designer, and one with the contractor. While the architect or designer and the contractor should work together, contractually they do not have to work together and oftentimes they do not. Additionally, DBB is a complex system because the owner has several stakeholders to answer to, the contractor has several subcontractors, and the architect or designer has several consultants as well. This is why DBB projects often take a bit longer to complete.

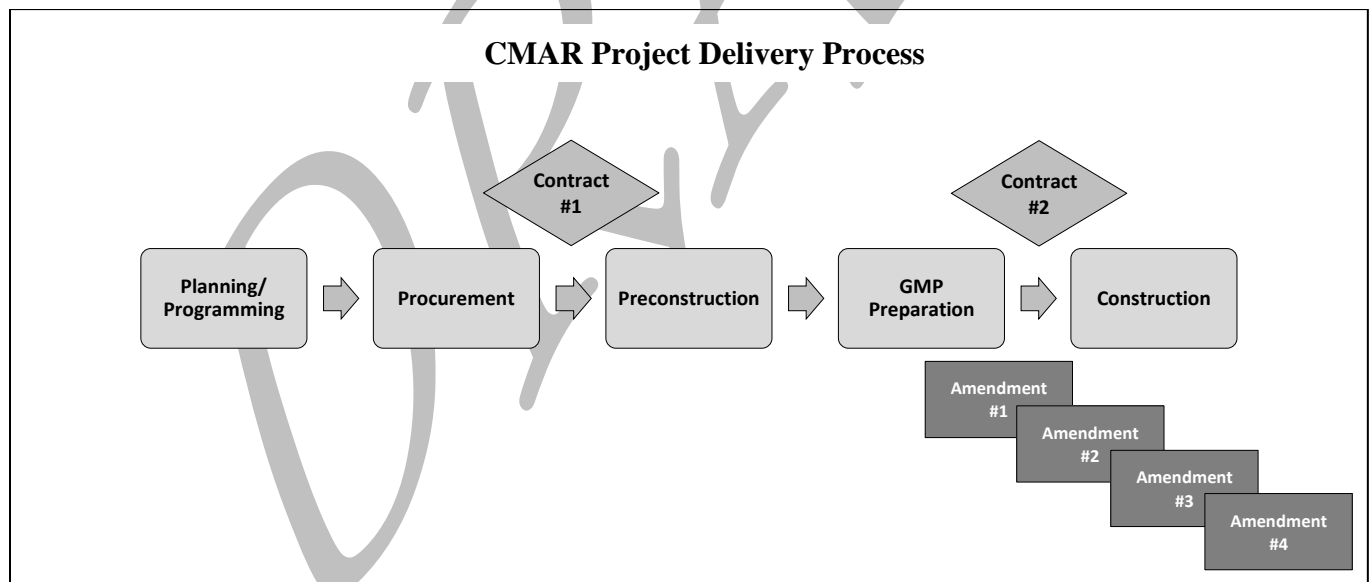
Time savings are seen with CMAR over traditional project delivery methods because construction can begin before the design is fully completed. For example: design details such as wall colors are not required to begin excavation, so some of the design and construction aspects of a project can take place concurrently. Early engagement of the contractor allows for feedback to the architect or designer, and being involved with the architect or designer leads to a better understanding of the project on the part of the contractor, both of which result in performance improvements. Moreover, using CMAR often results in a reduction in claims and disputes.

**El Asmar** explained briefly how the meta-analysis was conducted to determine the impact of project delivery on project performance. Because each project is unique, it is difficult to accurately compare different projects. Inspiration was taken from football where in order to rate the best quarterback information is collected - number of passes, interceptions, and touchdowns made, etc. – and entered into a

mathematical formula. This was adapted for project delivery taking into consideration factors such as customer satisfaction, safety, schedule, cost, quality, communication, and collaboration. On average, based on about 5,000 projects included in the meta-analysis, more integrated delivery methods such as CMAR provide better performance, are faster, have less cost growth, and cause fewer disruptions to the public than traditional delivery methods. Additionally, preliminary results show that the facilities constructed may last longer, though this point has yet to be validated.

**Kramer** noted that CMAR is not new to the Yuma region, and pointed out several examples throughout the community including the Yuma Main Library, which was delivered ahead of schedule and under budget, and the new Dorothy Hall Elementary School that is currently under construction. The JOC with CEMEX for the street and utility project behind Main Street was treated as a CMAR, including a preconstruction phase, and that project completed on time and about 6-7% under budget. Contractors in CMAR are selected much like a professional engineer or architect in a qualifications-based process. A selection committee scores all statements of qualification to come up with a short list of firms who are then invited to present to the committee in person. After the presentations are scored, the highest ranked firm gets selected to perform the job.

CMAR is a two-contract process where first the preconstruction services are negotiated, and once preconstruction services are complete the construction contract is negotiated. The preconstruction services contract locks in the scope of work, terms and conditions, overhead and profit multipliers, and bond rates for the contractor so there are no questions, surprises, or negotiations about anything later except the cost to do the construction work. The construction contract includes a Guaranteed Maximum Price (GMP) that is negotiated by the contractor who has been involved throughout the design process and is intimately familiar with the owner's expectations. If construction is phased, there could potentially be multiple amendments with a separate GMP for each phase.



The City has two projects on tomorrow night's agenda for approval of preconstruction services with Core Construction: the construction of the Utility Department Administration Building and the renovations to Fire Station 4. Core Construction was unanimously picked by the selection committee for both projects based on their scoring in the competitive process. In both cases, the preconstruction contracts are at about 1% of the program value of the project, which is low compared to the typical 2-3% preconstruction cost.

**Mayor Nicholls** clarified that Core Construction is not related in any way to his firm, Core Engineering Group. **Kramer** continued, explaining that once the preconstruction contracts are approved by City Council, Core Construction will engage with the design firms on both projects. During this preconstruction phase, the construction contract and GMP will be negotiated and will then be brought before City Council for approval.

Discussion:

- Cost savings through CMAR result from contractor involvement with the designer to maximize the budget, project phasing that results in reduced delivery time, and price competition at the subcontractor level (**Mayor Nicholls/Bearup**)
- A 10-parameter scoring method, originally created for the Orange County Department of Public Works and adapted for use in Arizona, is used to determine which delivery method is best suited to a project (**Knight/Kramer**)
- The construction contract can be negotiated at any time during preconstruction services, though there is value in waiting until the design is substantially advanced to avoid unnecessarily tying up budget authority (**Knight/Kramer**)
- CMAR involves an entirely collaborative arrangement between the owner, the design professional, and the CMAR to create the best value for the owner based on the criteria provided (**Knight/Kramer**)
- Qualifications-based selection incentivizes contractors to provide good customer service and good job performance in exchange for the potential for future jobs (**Thomas/Bearup**)
- Contractors involved in CMAR will seek out subcontractors who do good work in order to reduce their risk, rather than seeking out the lowest price subcontractor to drive the price down (**Thomas/Bearup**)

## II. COMPENSATION AND PAY PLAN DISCUSSION

Discussion was held as follows regarding the presentations to City Council by the Yuma Police Department (YPD) and the Yuma Fire Department regarding retention and pay issues within those departments:

- The three main concerns that YPD would like addressed by the pay plan are: 1) move all employees through the pay scale in a reasonable amount of time, 2) ensure that tenured employees earn more than junior employees in the same rank, and 3) ensure that supervisors earn more than their subordinates. (**Watts/Lekan**)
- The expectation is not that the pay plan will make the City of Yuma equal with other agencies competing for the same employees, but that it will reduce the gap between the competitive pay. (**Watts/Lekan**)
- YPD employees are frustrated, but hopeful there will be a resolution. They are focused on their jobs and are waiting to see what direction the pay plan discussion goes. (**Watts/Lekan**)
- While the Labor Market Study (LMS) may not be helpful with regard to the public safety pay plan, when addressing all City employees it is beneficial to know exactly where the City is within the market. (**Thomas/Welch**)
- Pay disparities exist in the majority of City departments, where junior employees sometimes earn more than someone who has been with the City for a longer amount of time (**Thomas/Welch**)
- Many of the proposed pay plans are based on the assumption that variables will not change within the next ten years and for that reason they are not sustainable within public safety, let alone the entire City. (**Thomas/Marlin**)

- To create a sustainable pay plan, the City needs to determine where they would like employee pay to fall compared to the market and figure out how to generate revenues sufficient to cover the resulting increase in pay and benefits. **(Thomas/Marlin)**
- The City's budget model is based on trend data that shows that the entire budget is not spent every year; if departments were to spend their entire budget each year it would require a different approach in how the City budgets for expenditures. **(Thomas/Marlin)**
- A pay plan that guarantees an increase each year, whether as part of a step increase or as a pay raise, is not suggested because it is difficult to say what the City's revenues will be even two years from now, much less eight to ten. **(Thomas/Marlin)**
- The whole budget framework is one of priorities; within YPD the priority is to reach an equilibrium where there are natural losses, but the department is as complete as necessary to accomplish its goals **(Shelton)**
- While it is not possible to foretell the future, the City can make reasonable assumptions based on available data to the extent that employees and prospective employees can estimate what their pay will be in a number of years. **(Shelton)**
- The City may not know what will happen in 10 years, but an intelligent decision can be made based on what will likely work for the next three to five years taking into consideration what is happening in the economy right now **(Knight)**
- Budget models from other cities with demographics similar to Yuma can be looked at to obtain ideas that may work for the City **(McClendon)**
- While public safety is the area that most urgently needs attention it does not operate in a silo and the rest of the City's employees also need to be addressed, starting with an LMS **(Mayor Nicholls)**
- While it is good to have multiple options to consider, too many options could slow down the process and delay implementation **(Mayor Nicholls)**
- The only LMS criteria that is variable are the cities that are chosen to be canvassed, which are selected based on their comparability to Yuma **(Thomas/Wilkinson)**
- While the City may not be able to fully adjust pay based on the LMS, it is better to complete an LMS regularly and operate from a position of knowledge than a position of unawareness **(Shelton/Mayor Nicholls)**

### **III. REGULAR CITY COUNCIL MEETING AGENDA OF OCTOBER 3, 2018**

Motion Consent Agenda Item B.6 – Request for Qualifications: Music Promoter Services for City Events (one-year contract with option to renew for four additional one-year periods with BMC Productions & Entertainment; Neste Event Marketing; Robb Bower Presents, LLC; Selak Entertainment, Inc.; and Tronix Sound, LLC with an estimated total cost of \$135,000 per year) (Parks & Recreation)

**McClendon** declared a conflict of interest with regard to Motion Consent Agenda Item B.6.

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Motion Consent Agenda Item B.7 – Intergovernmental Agreements: Arizona Department of Public Safety (DPS) Gang and Immigration Intelligence Team Enforcement Mission (GIITEM) (YPD to provide one sworn officer liaison and DPS to provide access to AZ GangNET) (YPD)

**Shelton** expressed reluctance to support an agreement involving GIITEM due to his recollection of conversation with YPD officers when he was previously employed with the City regarding some of the tactics involved.

**Motion** (Thomas/Shelton): To recess to Executive Session for the purpose of receiving advice from legal counsel on Motion Consent Agenda item B.7. Voice vote: **approved** 6-0. The meeting recessed at 8:16 p.m.

**Mayor Nicholls** reconvened the meeting at 8:31 p.m. with the above-noted parties present.

**Shelton** stated that he is now convinced that GIITEM has improved and he would have no trouble supporting the agreement.

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**Motion Consent Agenda Item B.6** – Request for Qualifications: Music Promoter Services for City Events (one-year contract with option to renew for four additional one-year periods with BMC Productions & Entertainment; Neste Event Marketing; Robb Bower Presents, LLC; Selak Entertainment, Inc.; and Tronix Sound, LLC with an estimated total cost of \$135,000 per year) (Parks & Recreation)

**McClendon** having previously declared a conflict of interest, **Mayor Nicholls** asked that she refrain from participating in the discussion on this item.

**Watts** asked for clarification as to whether the funds associated with this item are additional funds that are being requested or are a consolidation of existing funds. **Wendt** clarified that the funds in question have already been budgeted individually to the Civic Center, the Art Center, the Parks and Recreation Department, and Heritage Festivals. The purpose of this item is to consolidate the budgeted funds into one contract. **Watts** asked if this will result in a cost savings. **Wendt** stated that it may, explaining that each event will be bid on individually by the promoters once the scope of work is determined.

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**Motion Consent Agenda Item B.2** – Temporary Extension of Premises: Takos & Beer (for a First Anniversary Celebration on Saturday, October 20, 2018) (Administration/Clerk)

**Knight** asked if loud music will be involved in this event, and if so will they be required to move the music inside at a certain time so as not to disturb residents in the surrounding neighborhoods. **Lekan** replied that while he is not aware if there will be a band or music, loud music and noise level complaints are addressed by a very complex ordinance that requires decibel ratings that vary based on the day of the week and time of day.

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**Resolution Consent Agenda R2018-028** – Designation of Entertainment District: Old Town Zoning District (designate the Old Town Zoning District as defined in Chapter 154, Article 10 of the Yuma City Code as an Entertainment District as defined in A.R.S. § 4-207(D)(2), as amended) (DCD)

**Watts** asked what the boundaries of the proposed Entertainment District are and whether Gila Street is included within those boundaries. **Files** stated that he believed Gila Street is included. **Watts** asked what impact, if any, the Entertainment District would have on the residents in that area. **Files** explained that the purpose of the Entertainment District is to give City Council the ability to make an exception on a case-by-

case basis to the 300-foot rule that prohibits most types of liquor licenses from being approved for locations within 300 feet of a certain organizations such as schools and churches.

**Thomas** asked if there was specific criteria that City Council needs to follow when waiving the 300-foot requirement. **Files** stated that in reading the statute he did not see any criteria, but City Council would weigh factors such as the type of business, entertainment provided, and hours of operation.

**Knight** asked if nonprofit organizations would be required to contribute to the Downtown Improvement District (Improvement District). **Files** explained that currently nonprofit organizations and government buildings located within the Improvement District are exempt from property tax and are not required to contribute. However, in the future contributions to the Improvement District may be required as the basis for issuing a Conditional Use Permit (CUP). **Knight** asked if nonprofit organizations and government entities that are already located in this area would be exempt from this requirement. **Files** stated that it is likely this would only apply to someone requesting a CUP.

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Introduction of Ordinance O2018-042 – Sale of Surplus Right-of-Way: 2805 S. Avenue B (declare certain right-of-way at the southwest corner of Avenue B and 28th Street surplus for City use and vacate the surplus right-of-way to the adjacent property owner upon the payment of the purchase price) (City Attorney)

**Knight** asked if the proceeds from the sale of the property would be returned to the account that was originally used to purchase the property. **Files** confirmed that this is generally the rule that the City uses.

#### **IV. EXECUTIVE SESSION**

There being no further business, **Mayor Nicholls** adjourned the meeting at 8:31 p.m. No Executive Session was held

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Lynda L. Bushong, City Clerk

APPROVED:

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Douglas J. Nicholls, Mayor