



EJCDC[®] 

ENGINEERS JOINT CONTRACT
DOCUMENTS COMMITTEE

*Contract Documents for
America's Infrastructure*

**EJCDC[®] Has Just Published
The 2021 EJCDC Construction Manager as Advisor Series (CMA Series)**

EJCDC is a joint
venture of three
Engineering
organizations



EJCDC Publishes five families of documents

- Engineering Series
- Construction Series
- Design-Build Series
- Procurement Series
- Construction Manager as Advisor Series



“Yes, we are using EJCDC documents for Infrastructure projects. We are using them for Water and Sewer Projects, as well as for survey projects. Yes, they are exactly what we need.”

A medium sized Northwest city

EJCDC's CMA Series comprises twenty-one new documents and five documents from the Construction Series, including:

- CMA-501, Agreement between Owner and Construction Manager as Advisor
- CMA-700, General Conditions of the Construction Contract—CMA Series
- E-500 (CMA), Owner-Engineer Agreement (When Owner has Retained a CM as Advisor)
- Other Bidding and Construction Documents—CMA Series



About the CMA Model

- Sometimes known as: CM as Agent; Agency CM; Third-Party CM
- Same general category as “Owner’s representative”
- Despite the name, CMA does not “**construct**,” or “**manage construction**”
 - Advises and assists Project Owner regarding constructability, costs, schedule, and selection of construction contractors
 - Provides construction contract administration for Owner



CM as Advisor (CMA) is Not CM at Risk (CMAR)

- Major difference:
 - The Construction Manager under CM at Risk (CMAR) is a party to the construction contract and contracts with subcontractors.
 - CMAR is a project delivery method.
 - The Construction Manager under CM as Advisor (CM) provides expert advice and administers the project.
 - CMA is not a project delivery method.

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CONTRACT DOCUMENTS
FOR AMERICA'S INFRASTRUCTURE

CM As Advisor Not a Project Delivery Method



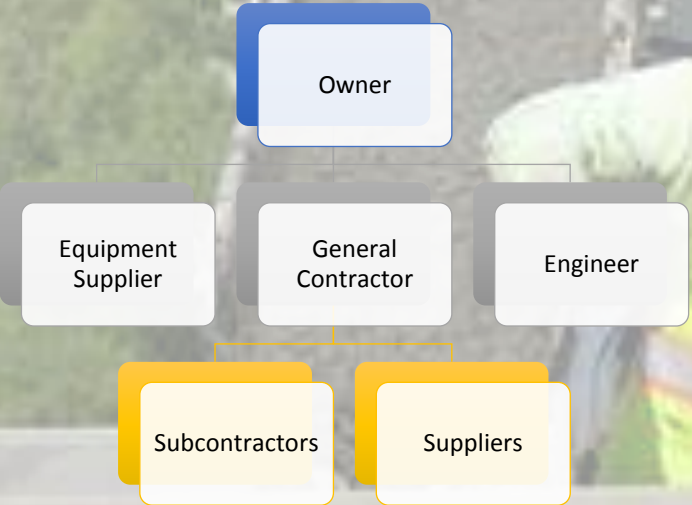
CMA is used to supplement an underlying delivery method.

CMA is compatible with common project delivery methods such as design-build, design-bid-build

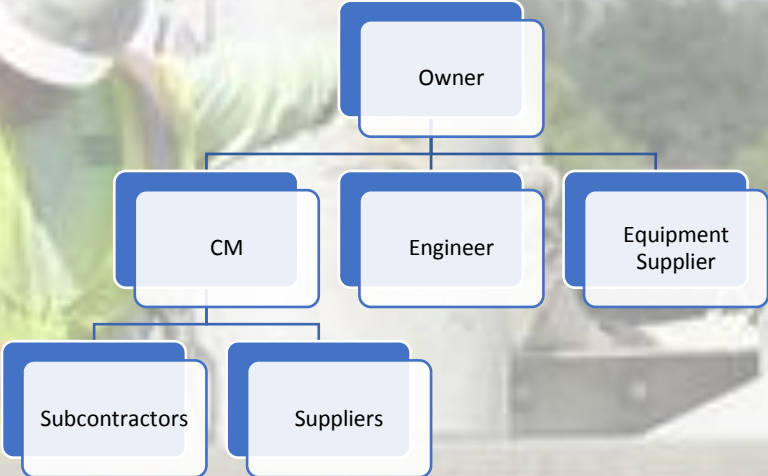
EJCDC CMA documents build on EJCDC's 2018 Construction Series and 2020 Engineering Series documents, which are fundamentally design-bid-build or design-propose-build.

Common Project Delivery Methods

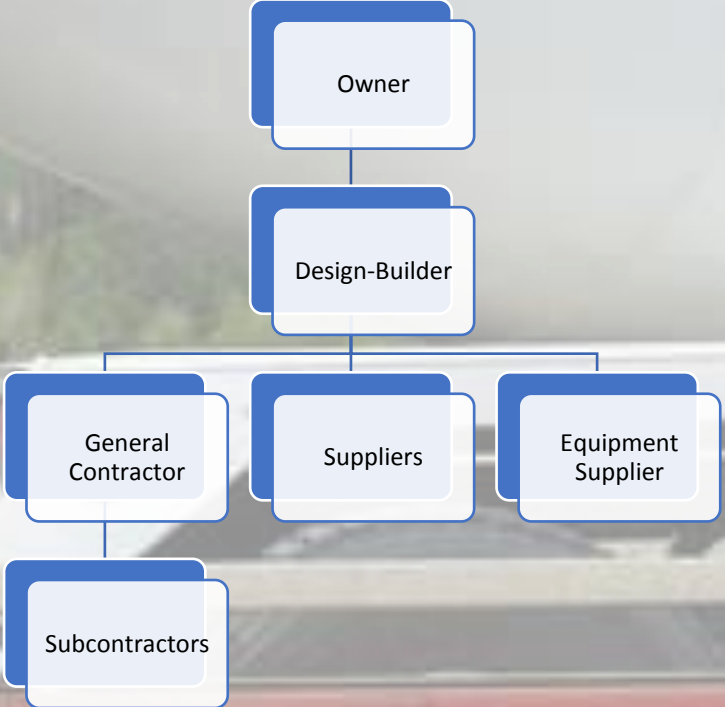
Design – Bid – Build



CM at Risk (CMAR)

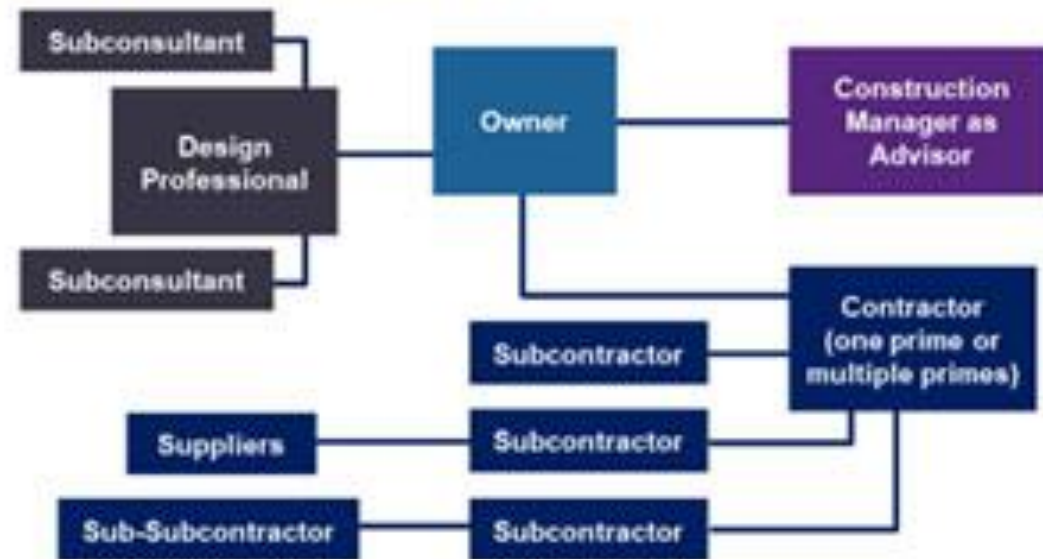


Design – Build

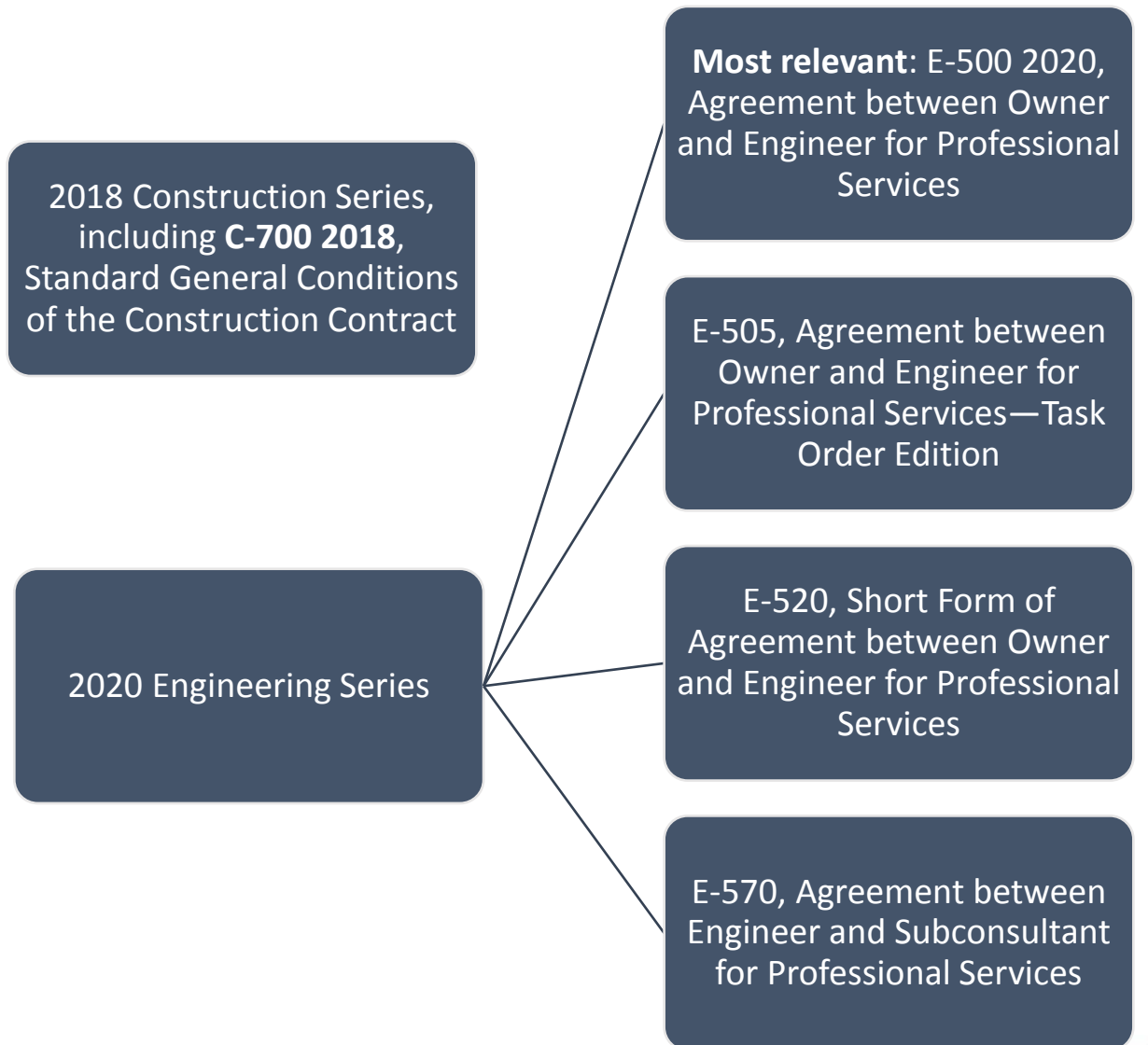


CM Advisor Project Structure

Construction Manager as Advisor Roles and Relationships



Recent EJCDC documents in the Construction and Engineering series form the basis for CM as Advisor Documents.



EJCDC's New Construction Manager as Advisor (CMA) Series documents parallel the Construction and Engineering Series.

CMA-501, Agreement between Owner and Construction Manager as Advisor

CMA-700, General Conditions of the Construction Contract—CMA Series

E-500 (CMA), Owner-Engineer Agreement (When Owner has Retained a CM as Advisor)

Other Bidding and Construction Documents—CMA Series


EJCDC CMA-501, Owner- CM as Advisor Agreement

- CMA 501 is the Main CMA Agreement. It presents general terms and conditions, definitions, signature page
- Detailed provisions are specified in the Exhibits, including Scope of Services, Compensation, Insurance requirements.



Highlights of EJCDC CMA-501 Main Agreement include:

Many provisions parallel to similar provisions in EJCDC engineering services agreements such as E-500 2020



CMA will perform services in accord with standard of care for construction management



CMA not responsible for safety, for Contractor's means and methods of construction, or for environmental condition of site



Standard clauses regarding payment, termination, general insurance obligations, indemnification

EJCDC CMA-501 Main Agreement Scope of Services include:

General management services:

Design Phase services

Procurement Phase services including Contractor selection

Post-Construction services

EJCDC CMA-501 Scope of CM's Services—Design Phase


Design Phase Services (Exhibit A – Article 2 – Basic Services)

- Commences upon receipt of Engineer's Preliminary Design Phase Report
- Value Engineering Studies
- Constructability reviews (construction cost, constructability, operability, risk management)
- Preparing or assembling Bidding/Proposal and Front-End documents for construction contracts
- Division 01 Specifications
- Cost estimating/cost management
- Scheduling (all phases)

EJCDC CMA-501 Scope of CM's Services— Procurement Phase

Procurement Phase Services

- Bidding/Proposal documents
- Initial screening of Bidder/Proposer RFIs
- Prepare addenda, with input from Engineer
- Pre-bid conference
- Bid/Proposal opening, analysis/evaluation, recommend award of contract
- Administer execution of contracts, submittal of bonds, insurance certificates, Notice to Proceed



EJCDC CMA-501 Scope of CM's Services— Construction Phase

Construction Phase Services

- CA services Full-Time, On-site
- Coordinate flow of construction-related communications between Owner, Contractor, Engineer
- Administer submittal (shop drawings, schedules) process
- Administer Applications for Payment
- Field representation and site visits
- Scheduling services (per Exhibit A Paragraph 2.01)
- Quality management
- Contractor RFIs
- Change management
- Completion/close-out

EJCDC CMA-501 Scope of CM's Services—Post- Construction Phase

Post-Construction Phase Services – Exhibit A - Section 2.05

- Scheduled Correction Period Inspection
 - Within one month prior to end of Construction Contract's correction period
 - Inspections for deficiencies in Work or repairs to damage to Site or adjacent areas requiring contractor correction
- Unscheduled Post-Completion Inspections
 - Owner request for inspection of apparent or discovered defects in Work
 - Consult with Engineer regarding recommendations for replacement or correction of defective Work or need to repair damage (additional service)
- Send notices of defective Work or damage to Contractor and represent Owner in discussions with Contractor (additional service)

CMA-501

CM's Compensation

CMA 501 offers three alternative compensation models

- Lump Sum
- Standard Hourly Rates
- CM's Direct Labor Costs Times a Factor

Other CMA Bidding/Construction Documents

The CMA documents are similar to EJCDC Construction (C-Series)

There are References to CM if appropriate

In some cases, CM is substituted for Engineer

Examples are:

- In C-050, Engineer obtains project information from Owner, for use in preparing Front-End documents
- In CMA-050, Construction Manager obtains project information from Owner for use in preparing Front-End documents

Other CMA Bidding/Construction Documents

The CMA Documents are generally very similar to EJCDC Construction (C-Series)

They present references to CM if appropriate

In some cases, they present a substitution of CM for Engineer

Examples

In C-050, Engineer obtains project information from Owner, for use in preparing Front-End documents

In CMA-050, Construction Manager obtains project information from Owner for use in preparing Front-End documents

CMA-500 Owner-Engineer Agreement

Overview

- Provisions acknowledge CMA's interactive role during design phase.
- Tasks such as preparing "front-end" contract documents removed from Engineer's scope.
- Changes in Construction Phase services reflect CMA's primary administrative role.
- Preserves Engineer's core duties regarding interpretation of drawings and specifications, changes in design.

CMA-500 Owner- Engineer Agreement

- **Contract and Exhibits**
- **Exhibit A defines scope:**
 - **Manage/Coordinate Design**
 - **Study and Report Phase**
 - **Preliminary Design Phase**
 - **Final Design Phase**
 - **Construction Phase**
 - **Post-Construction Phase**

CMA-500 Owner- Engineer Agreement

- CMA-500 is loosely modeled on E-500 (2020)
 - The Engineer is not responsible for CMA's opinion of probable construction cost (Art. 5.01(A))
 - There are new standard of care provisions: (Art. 6.01 [P, Q and R]) :
 - P. The Engineer shall not be responsible for the acts or omissions of Construction Manager, or for Construction Manager's performance of its services for Owner.
 - Q. In the performance of its services for Owner, Engineer shall take into account differences of opinion that have arisen between Engineer and Construction Manager regarding engineering, construction, cost, and technical matters, in a manner that adheres to sound engineering practices and Engineer's professional obligations.
 - R. Engineer shall report such differences of opinion to Owner, together with a brief explanation of the basis for Engineer's proposed resolution of the issue.

CMA-500 Owner- Engineer Agreement

Insurance: Paragraph 6.04(D):

- Owner shall require CMA to purchase and maintain insurance ... to protect Owner and Engineer's interests in the Project.

CMA-500 Owner- Engineer Agreement

Design Phase:

“In most cases the Construction Manager will not begin to provide services that relate to or involve the Engineer’s performance of its services until the Engineer’s Final Design Phase.”

CMA-500 Owner-Engineer Agreement

Design Phase:

- If CM will be involved during Study and Report Phase or Preliminary Design Phase? Revise Exhibit A 1.02 or Exhibit A Paragraph 1.03, or both.
- Engineer's services that result from unanticipated Construction Manager input during the early study/design phases will be treated as Additional Services.

CMA-500 Owner-Engineer Agreement

Constructability Reviews

“If the constructability review recommendations suggest revisions to the Drawings or Specifications, revise the Drawings and Specifications to the extent such recommendations are acceptable and revisions are appropriate, in Engineer’s professional judgment, based on consistency with the Engineer’s *design intent, sound engineering practices, and Engineer’s professional obligations.*”

“

Exhibit A – Paragraph 1.04(G)(7)(c)

CMA-500 Owner-Engineer Agreement

Value Engineering

“As directed by Owner, [Engineer shall] revise the final design to incorporate value engineering proposals accepted by Owner, provided the design changes will be consistent with the *Engineer’s design intent, sound engineering practices, and Engineer’s professional obligations.*”

Exhibit A – Paragraph 1.04(G)(8)(c)

CMA-500 Owner- Engineer Agreement

Procurement Phase:

- CMA prepares “front end” specifications - Division 01, General Requirements with Engineer input.
- In the Preliminary Design Phase Report, Engineer will expressly identify those Division 01 Specification sections, that Engineer proposes to prepare during the Final Design Phase, because of the relationship of such sections (or portions of sections) to the design itself, to Engineer’s design concept, or to Engineer’s contractual responsibilities.

Procurement Phase:

- Engineer will forward to CMA potentially relevant information obtained from Owner regarding constraints or requirements applicable to the Division 01 Specifications.
- If CMA consults with Engineer regarding any aspect of the procedural and administrative Division 01 Specifications that may relate to the project design, Engineer will provide appropriate engineering input.

CMA-500 Owner- Engineer Agreement

CMA-500 Owner- Engineer Agreement

Procurement Phase:

- Engineer not responsible for preparation or assembly of bidding/proposal documents or construction contract documents.
- Prior to the first Final Design Phase submittal, Engineer will review the proposed bidding and contracting documents and provide comments and recommendations to Owner and CMA and meet to discuss same.
- Owner may direct CMA to respond to Engineer's comments and recommendations.

CMA-500 Owner-Engineer Agreement

Procurement Phase:

- Engineer not required to certify or seal such front-end specifications sections.
- Engineer remains responsible for those sections or portions of sections of Division 01 prepared by Engineer and incorporated by CMA in the final drafts.

CMA-500 Owner-Engineer Agreement

Procurement Phase:

Engineer and CMA will participate in a collaborative process with respect to the determination of probable construction cost during the final design phase.

Construction Phase:

Guidance Notes—Engineer’s Site Visits:

1. The following provisions assume that Engineer will visit the Site to observe the construction in progress on a monthly basis.
 - a. The user should indicate if the frequency of such periodic visits will be other than monthly.
 - b. If no periodic visits will be included as Basic Services, make appropriate revisions to Exhibit A Paragraph 1.06.B.9.a.

CMA-500 Owner-Engineer Agreement

CMA-500 Owner- Engineer Agreement

Construction Phase:

Guidance Notes—Engineer’s Site Visits: (continued)

2. EJCDC also assumes that Engineer will attend construction progress meetings on a monthly basis.
 - a. The user should indicate if the frequency of Engineer’s attendance at such meetings will be other than monthly. If no scheduled attendance at progress meetings will be included as Basic Services, make appropriate revisions to Exhibit A Paragraph 1.06.B.9.b.
 - b. Engineer will also visit site upon express request by Owner or CMA, or as a matter of necessity as engineer of record. Such requested or engineer-of-record visits are categorized as Additional Services.

Disputes – Exhibit H (If Used, Arbitration)

“If a Dispute ... between Owner and Engineer involves the work of a Contractor, Subcontractor, CM , ... (each a "Joinable Party"), and such Joinable Party has agreed contractually or otherwise to participate in a consolidated arbitration concerning this Project, then either Owner or Engineer may join such Joinable Party as a party to the arbitration ...”

CMA-500 Owner-Engineer
Agreement

Limitations of Liability – Exhibit I

Owner's indemnification obligation to Engineer now includes (Paragraph 1.01(A)) negligent acts or omissions of *Owner's CM*.

CMA-500 Owner-Engineer
Agreement

CMA-700, General Conditions of the Construction Contract

- Great majority of content is same as C-700 (2018)
- Role of CMA as contract administrator is stated—for example, Contractor required to submit Applications for Payment to CM (rather than to Engineer)
- Role of Engineer during construction is reduced



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