

Reservoir Committee and Authority Board Meeting

Agenda Item 3.1: Reservoir CMAR Contract

January 16, 2026



For Today

Issue for Discussion

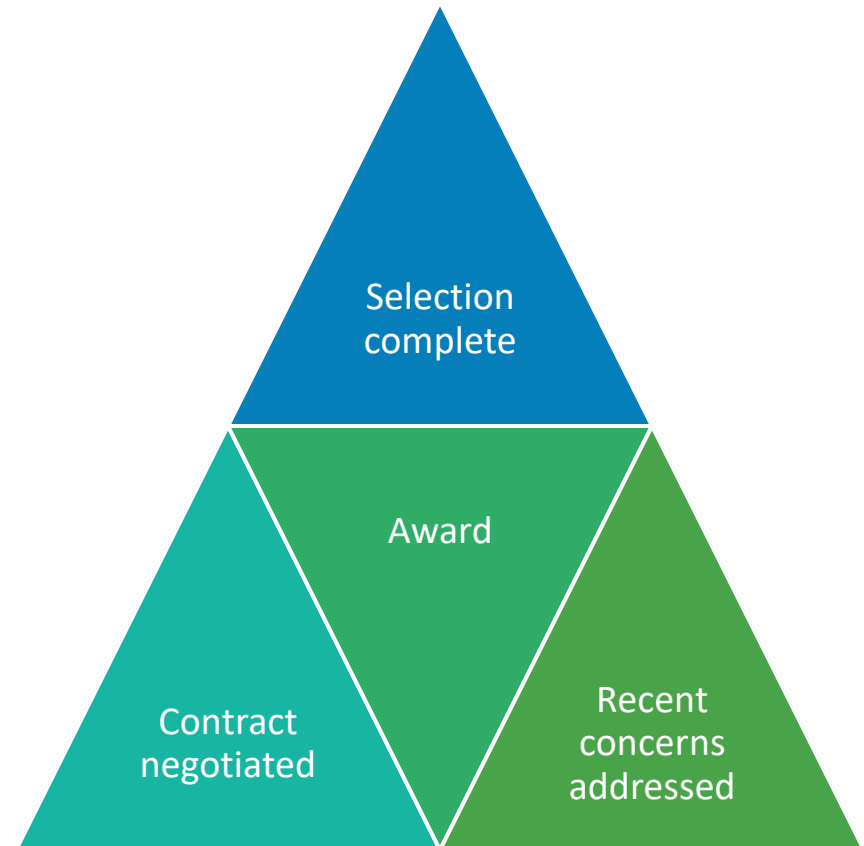
- Selection of the Reservoir Package CMAR Contractor

Policy Direction Needed

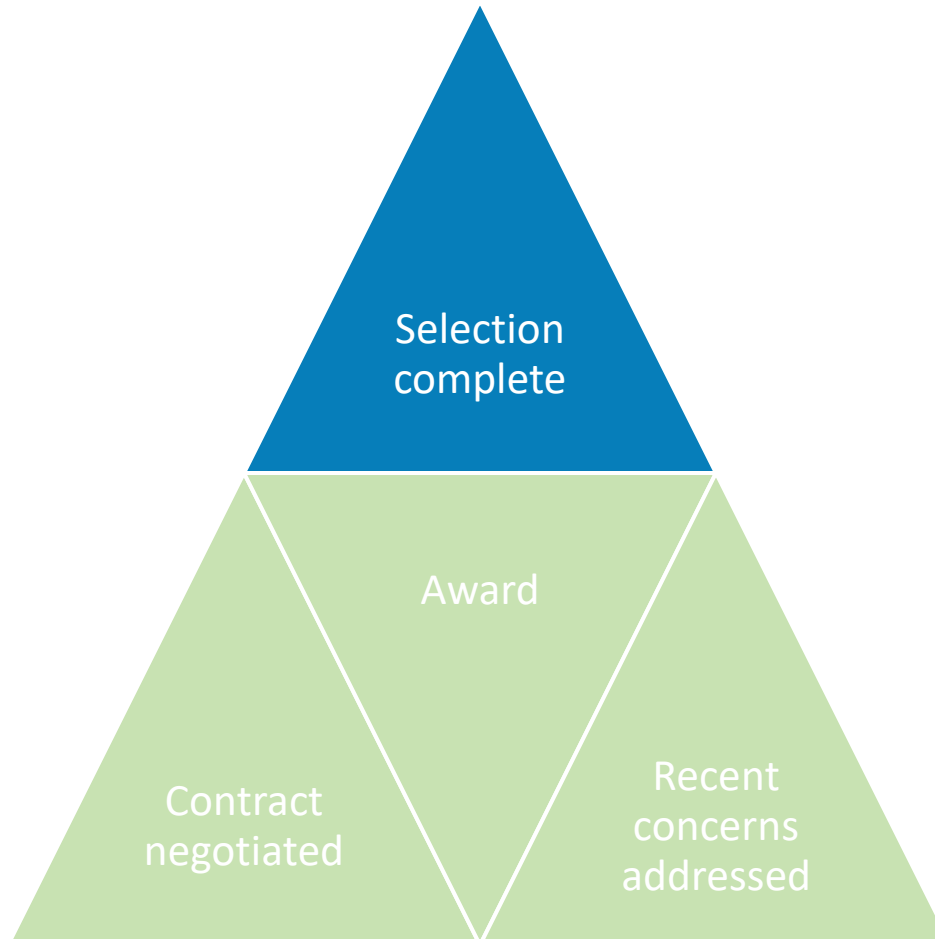
- Assignment of Reservoir Package CMAR responsibilities to Barnard Construction Company, Inc.
- Authorize execution of the CMAR Contract including Task Order 1 for a fixed lump sum amount of \$1,000,000 pending final legal review

Staff has successfully completed the Reservoir CMAR procurement process

- ✓ A rigorous process was undertaken to identify the highest-ranked proposer from a field of excellent CMAR teams, and the Sites Authority has made a **best value selection of Barnard Construction Company, Inc.** (Barnard).
- ✓ A CMAR contract that represents the **Sites Authority's interests and manages the risks** of the Sites Authority and the community has been successfully negotiated.
- ✓ Recent concerns raised during this procurement regarding **Barnard's capacity and ability to comply** with the Sites Authority's April 2025 Construction Workforce Policy have been addressed.



Reservoir CMAR Selection



Staff conducted a comprehensive 2-step procurement process

- Consistent with the process defined with the Contract Strategy Ad Hoc and the Board
- April 2025: Three respondents short-listed from RFQ No. 25-01
- October 2025: RFP No. 25-06 proposals submitted from all three qualified firms
- Rigorous evaluation concluding with interviews

Rankings were performed by an independent evaluation committee

- Subject matter experts assembled for objectivity and technical rigor
 - Representing owner and contractor experience
 - Representatives from Participants included
- Strict confidentiality protocols
- No ex parte communication
- Best value evaluation criteria applied

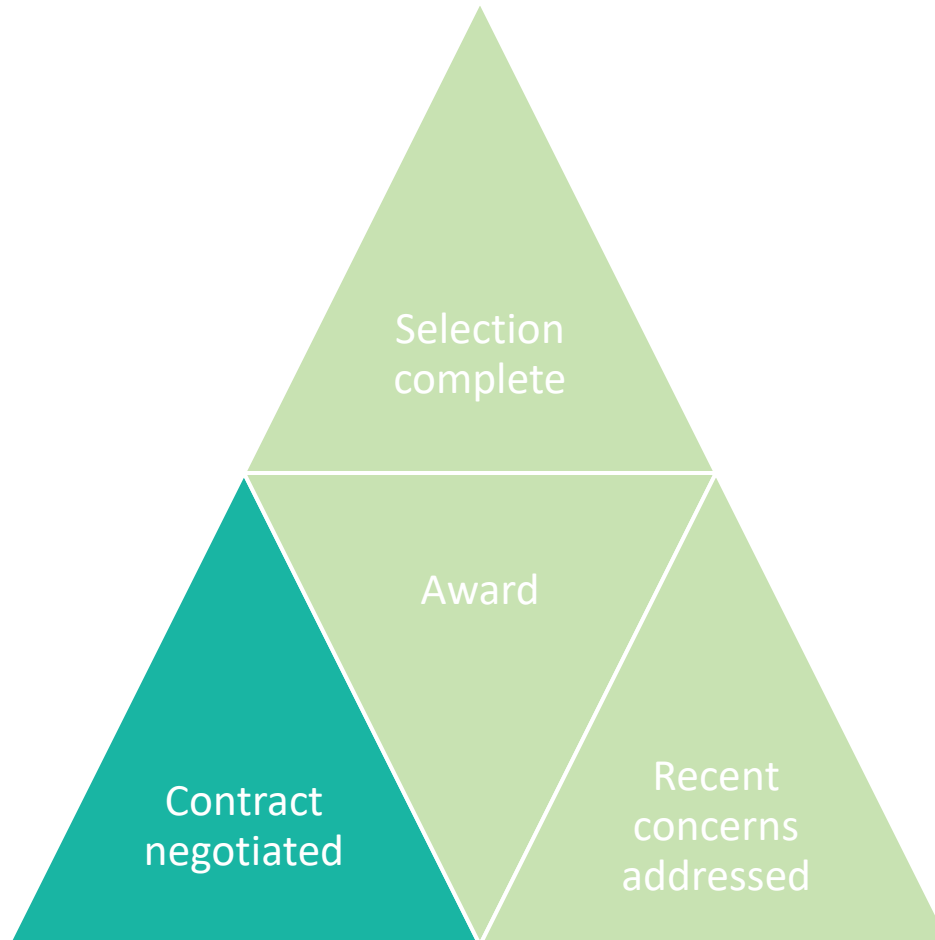
Barnard was considered to be the best value from amongst a highly competitive field

Barnard demonstrated:

- Recent and relevant experience with high-hazard earthen embankment dams
- Thorough technical understanding of Reservoir Package constraints and challenges
- Strong emphasis on owner-contractor collaboration to manage cost and schedule risk
- Clear understanding of local community sensitivities
- Favorable cost information providing best value

The evaluations resulted in **unanimous consensus** by the evaluation committee.

Reservoir CMAR Contract



The CMAR contract represents the Sites Authority's interests and provides mechanisms to manage risks to the Sites Authority and the public

- Identifies an open-book process to develop a Guaranteed Maximum Price (GMP) including comparison to an independent cost estimate
- Balanced risk allocation between parties and tools for managing contingencies and allowances
- Criteria for self-performance established
- Appropriate protections for both Sites Authority and CMAR
- The only scope in the contract today is a Task Order to fund preliminary preconstruction services in 2026.

Any **construction work would come in the form of an amendment with a GMP** established. This would be **subject to a future board approval.**

The 5 key commercial terms

The Contract Strategy Ad Hoc provided input on 5 key commercial terms and these have been incorporated

1. Indemnity - consistent with California statute
2. Limitation of Liability - cap and carveout negotiated
 - Cap: a tiered percentage from 25% to 15% of total contract value (ex: \$450M at \$3B contract value)
3. Consequential Damages - cap and carveout negotiated
 - Cap: \$30M 3rd party, \$5M Authority
4. Liquidated Damages - established on a per GMP basis when impacts for delays can be quantified based on scope
5. Material Escalation – established on a per GMP basis when schedule and materials can be quantified

Profit and rates have been established to provide a best value framework for Project delivery and alignment on future work

- **Profit:** a fixed profit rate of 7.4% for certain categories of work and parameters for determining profit with a clear cap of 12% on other work.
- **Equipment Rates:** for a representative set of major construction equipment (e.g., excavators, haul trucks, dozers), fixed rate components and established parameters and processes for variable components were established.
- **Management Rates:** management labor rates that will be utilized throughout the Project were established. Craft labor rates were excluded, as they are governed by externally established wage schedules and the Project Labor Agreement (PLA).

A Preconstruction task order includes important near-term activities

Task Order 1:

- Through December 2026
- Fixed total value: \$1,000,000
- Critical preliminary activities only, including constructability reviews of early work, schedule and sequencing coordination and assistance with permit authorizations.
- Future preconstruction subject to funding availability and Board approval
- Does not include construction scope

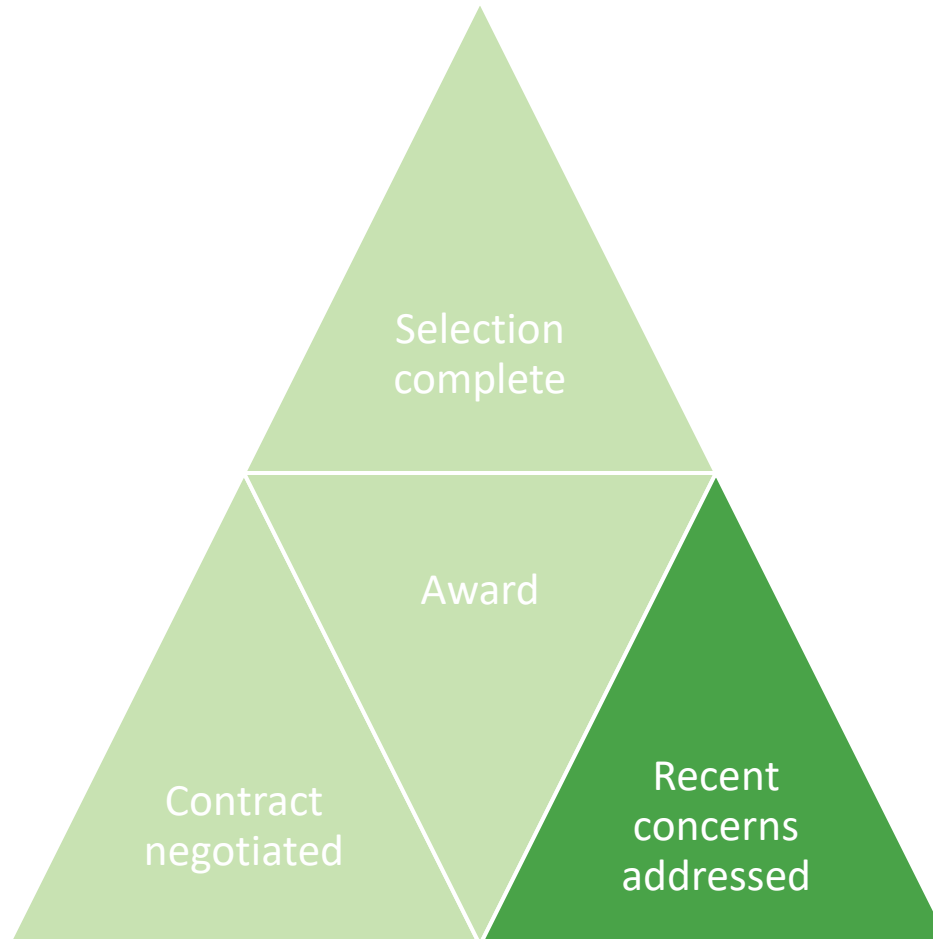
Constructability review from Barnard will help provide early **cost and schedule certainty prior and during investor commitment.**

The contract has been reviewed by counsel

The contract has been determined (subject to a final review) compliant with:

- California law
- Federal and state funding requirements
- Insurance and bonding requirements

Reservoir CMAR Recent Concerns

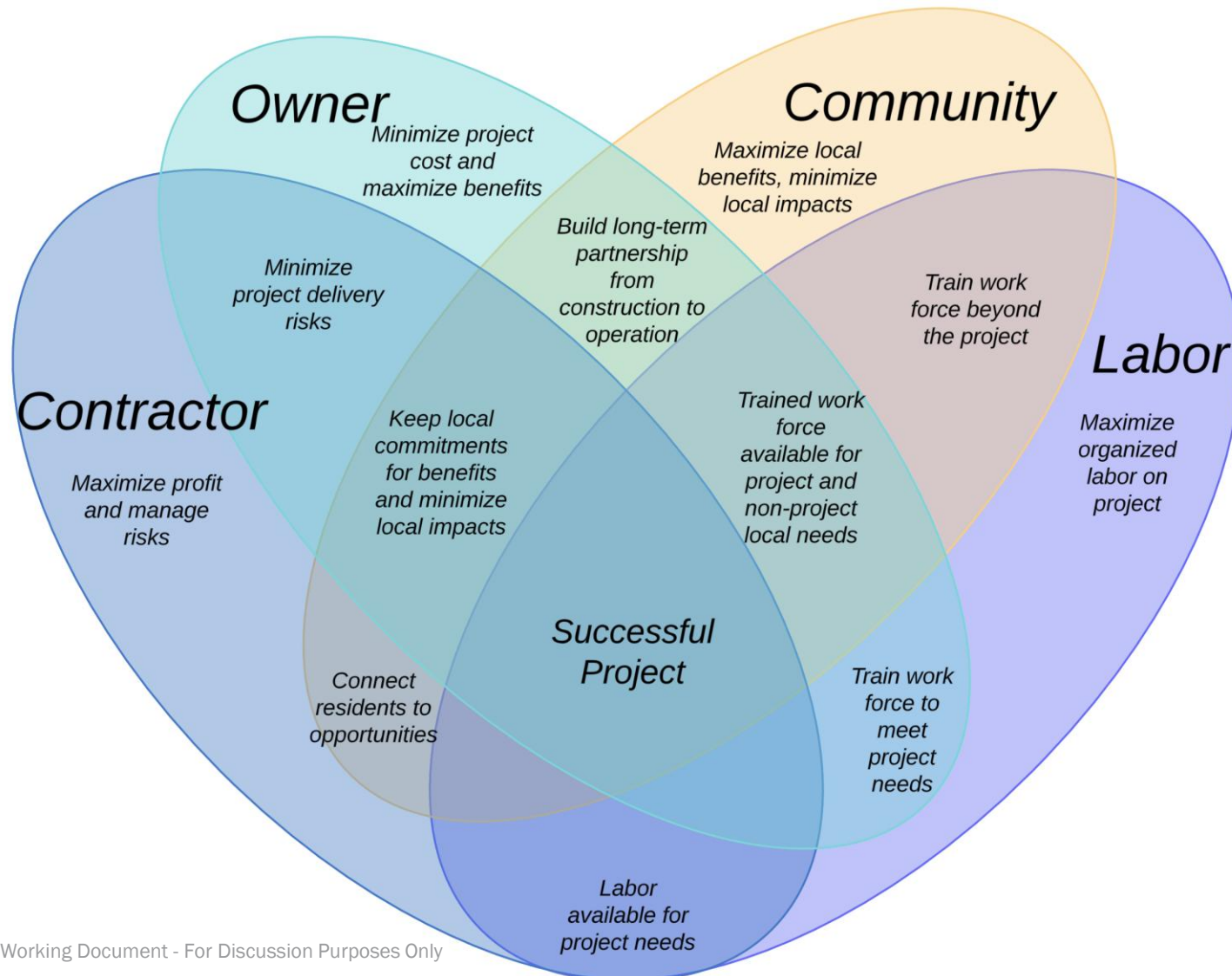


Since informing contractors of intent to negotiate with Barnard, concerns have been raised

The Sites Authority has a Construction Workforce Policy, adopted in April 2025 after input from labor, contractors, and the local community.

There are many shared interests when it comes to the construction workforce

Local Community Working Group Figure



Barnard is committed to providing a stable workforce and to the Sites Authority's goals

- Barnard's commitment to Construction Workforce Policy compliance
 - Project Labor Agreement (PLA)
 - Local Area and Project Area hiring
 - Training and apprenticeship commitments
- Barnard will negotiate and execute a PLA with all necessary organized trades
- Barnard's efforts at demonstrating labor stability are summarized in Attachment B to the staff report

January 14 letters from Nor Cal Carpenters Union (NCCU) and Northern California District Council of Laborers

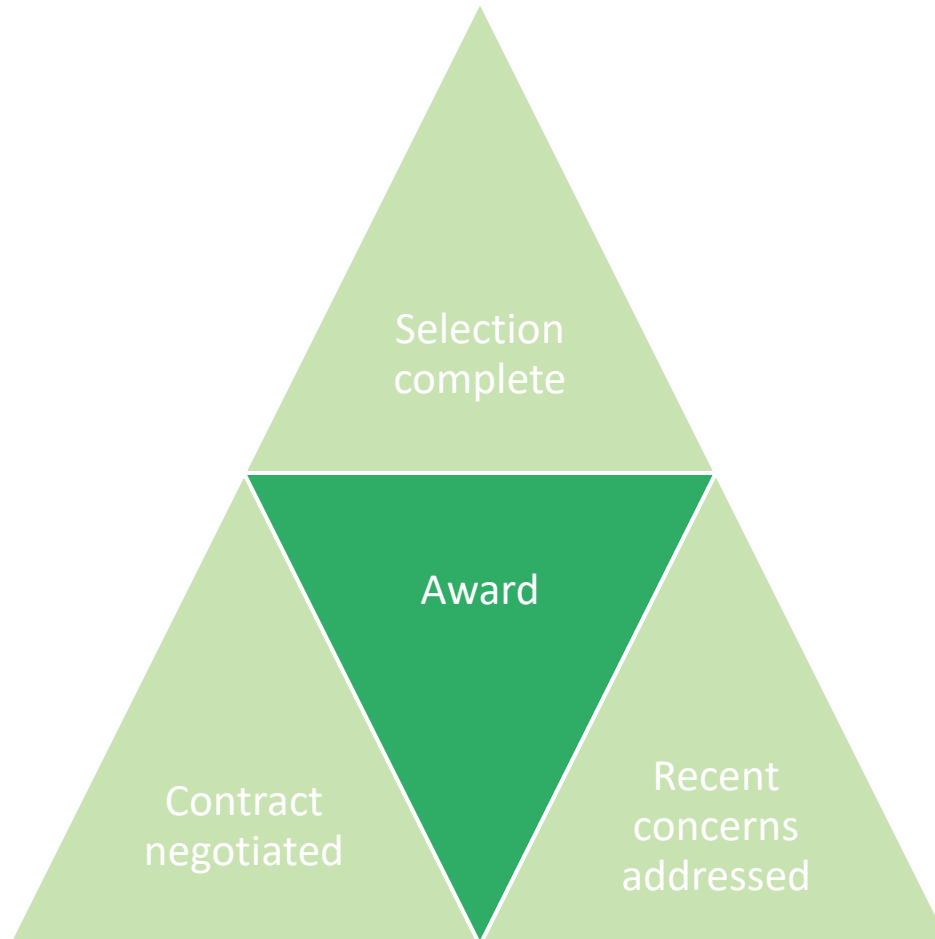
Letters highlight concerns about Barnard's performance on the Keeyask Generating Station (KGS) project

- KGS project was known and evaluated
- Information does not affect rankings or recommendation
- Proper due diligence was conducted
- Different delivery method: CMAR with GMP vs. GCC structure
- GMP provides productivity incentive and managed risk allocation
- Barnard's safety record evaluated in procurement process

Staff has concluded that no new information has surfaced that changes the recommendation to move forward with Barnard

- Nothing presented changes the recommendation
- Barnard remains highest ranked proposer offering best value
- Proposal is materially consistent with RFP requirements
- Minor questions clarified during evaluation and negotiation

Reservoir CMAR Action



Staff Recommends

1. Assignment of Reservoir Package CMAR responsibilities to Barnard Construction Company, Inc.
2. Authorize execution of the CMAR Contract including Task Order 1 for a fixed lump sum amount of \$1,000,000 pending final legal review

Next Steps

Upon Board Approval:

- Legal staff finalize contract documents and Task Order 1 as to form
- Executive Director executes contract
- Barnard onboarding begins, PLA negotiated and executed
- Preconstruction activities commence in 2026

Project Benefits:

- ✓ Confirms design, schedule, and construction planning are well coordinated
- ✓ Positions project to move efficiently into construction
- ✓ Sets up project for success before construction begins

