

House _____ Amendment NO. _____

Offered By

1 AMEND House Committee Substitute for House Bill No. 844, Page 2, Section 67.5050, by striking
2 all of said section; and

3
4 Further amend said bill, page 2, section 8.685, line 10, by inserting immediately after said line the
5 following:

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7 " 67.5050. 1. As used in this section, the following terms mean:

8 (1) "Construction manager", the legal entity that proposes to enter into a construction
9 management-at-risk contract under this section;

10 (2) "Construction manager-at-risk", a sole proprietorship, partnership, corporation, or other
11 legal entity that assumes the risk for the construction, rehabilitation, alteration, or repair of a project
12 at the contracted price as a general contractor and provides consultation to a political subdivision
13 regarding construction during and after the design of the project.

14 2. Any political subdivision may use the construction manager-at-risk method for a project.
15 In using that method and in entering into a contract for the services of a construction
16 manager-at-risk, the political subdivision shall follow the procedures prescribed by this section.

17 3. Before or concurrently with selecting a construction manager-at-risk, the political
18 subdivision shall select or designate an engineer or architect who shall prepare the construction
19 documents for the project and who shall comply with all state laws, as applicable. If the engineer or
20 architect is not a full-time employee of the political subdivision, the political subdivision shall select
21 the engineer or architect on the basis of demonstrated competence and qualifications as provided by
22 sections 8.285 to 8.291. The political subdivision's engineer or architect for a project may not serve,
23 alone or in combination with another, as the construction manager-at-risk. This subsection does not
24 prohibit a political subdivision's engineer or architect from providing customary construction phase
25 services under the engineer's or architect's original professional service agreement in accordance
26 with applicable licensing laws.

27 4. The political subdivision may provide or contract for, independently of the construction
28 manager-at-risk, inspection services, testing of construction materials, engineering, and verification
29 of testing services necessary for acceptance of the project by the political subdivision.

30 5. The political subdivision shall select the construction manager-at-risk in a two-step
31 process. The political subdivision shall prepare a request for qualifications, for the case of the first

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1 step of the two-step process, that includes general information on the project site, project scope,
2 schedule, selection criteria, and the time and place for receipt of proposals or qualifications, as
3 applicable, and other information that may assist the political subdivision in its selection of a
4 construction manager-at-risk. The political subdivision shall state the selection criteria in the request
5 for proposals or qualifications, as applicable. The selection criteria may include the construction
6 manager's experience, past performance, safety record, proposed personnel and methodology, and
7 other appropriate factors that demonstrate the capability of the construction manager-at-risk. The
8 political subdivision shall not request fees or prices in step one. In step two, the political subdivision
9 may request that five or fewer construction managers, selected solely on the basis of qualifications,
10 provide additional information, including the construction manager-at-risk's proposed fee and its
11 price for fulfilling the general conditions. Qualifications shall account for a minimum of forty
12 percent of the evaluation. Cost shall account for a maximum of sixty percent of the evaluation.

13 6. The political subdivision shall publish the request for proposal or qualifications in a
14 manner prescribed by the political subdivision.

15 7. For each step, the political subdivision shall receive, publicly open, and read aloud the
16 names of the construction managers. Within forty-five days after the date of opening the proposals
17 or qualification submissions, the political subdivision or its representative shall evaluate and rank
18 each proposal or qualification submission submitted in relation to the criteria set forth in the request
19 for proposals or request for qualifications. The political subdivision shall interview at least two of
20 the top qualified offerors as part of the final selection.

21 8. The political subdivision or its representative shall select the construction manager that
22 submits the proposal that offers the best value for the political subdivision based on the published
23 selection criteria and on its ranking evaluation. The political subdivision or its representative shall
24 first attempt to negotiate a contract with the selected construction manager. If the political
25 subdivision or its representative is unable to negotiate a satisfactory contract with the selected
26 construction manager, the political subdivision or its representative shall, formally and in writing,
27 end negotiations with that construction manager and proceed to negotiate with the next construction
28 manager in the order of the selection ranking until a contract is reached or negotiations with all
29 ranked construction managers end.

30 9. A construction manager-at-risk shall publicly advertise, in the manner prescribed by
31 chapter 50, and receive bids or proposals from trade contractors or subcontractors for the
32 performance of all major elements of the work other than the minor work that may be included in the
33 general conditions. A construction manager-at-risk may seek to perform portions of the work itself
34 if the construction manager-at-risk submits its sealed bid or sealed proposal for those portions of the
35 work in the same manner as all other trade contractors or subcontractors and if the political
36 subdivision determines that the construction manager-at-risk's bid or proposal provides the best value
37 for the political subdivision. The political subdivision shall have the authority to restrict the
38 construction manager-at-risk from submitting bids to perform portions of the work.

39 10. The construction manager-at-risk and the political subdivision or its representative shall
40 review all trade contractor or subcontractor bids or proposals in a manner that does not disclose the
41 contents of the bid or proposal during the selection process to a person not employed by the

1 construction manager-at-risk, engineer, architect, or political subdivision. All bids or proposals shall
2 be made public prior to the award of the contract but after all bids are evaluated and clarified.

3 11. If the construction manager-at-risk reviews, evaluates, and recommends to the political
4 subdivision a bid or proposal from a trade contractor or subcontractor but the political subdivision
5 requires another bid or proposal to be accepted, the political subdivision may compensate the
6 construction manager-at-risk by a change in price, time, or guaranteed maximum cost for any
7 additional cost and risk that the construction manager-at-risk may incur because of the political
8 subdivision's requirement that another bid or proposal be accepted.

9 12. If a selected trade contractor or subcontractor defaults in the performance of its work or
10 fails to execute a subcontract after being selected in accordance with this section, the construction
11 manager-at-risk may itself, without advertising, fulfill the contract requirements or select a
12 replacement trade contractor or subcontractor to fulfill the contract requirements. If a fixed contract
13 amount or guaranteed maximum price has not been determined at the time the contract is awarded,
14 the penal sums of the performance and payment bonds delivered to the political subdivision shall
15 each be in an amount equal to the project budget, as set forth in the request for qualifications. The
16 construction manager-at-risk shall deliver the bonds not later than the tenth day after the date the
17 construction manager-at-risk executes the contract unless the construction manager-at-risk furnishes
18 a bid bond or other financial security acceptable to the political subdivision to ensure that the
19 construction manager-at-risk will furnish the required performance and payment bonds if a
20 guaranteed maximum price is established.

21 13. The provisions of this section shall not apply to any metropolitan sewer district
22 established under article VI, section 30(a) of the Constitution of Missouri or charter city or charter
23 county governed by home rule under article VI, section 18 or 19 of the Constitution of Missouri.

24 14. (1) Civil works projects such as roads, streets, bridges, utilities, water supply projects,
25 water plants, wastewater plants, water distribution and wastewater conveyance facilities, airport
26 runways and taxiways, storm drainage and flood control projects, or transit projects commonly
27 designed by professional engineers shall be limited to those projects in excess of two million dollars;
28 and

29 (2) Non-civil works projects such as buildings, site improvements, and other structures,
30 habitable or not, commonly designed by architects shall be limited to those projects in excess of
31 seven million dollars;

32 15. Notwithstanding the provisions of section 23.253 to the contrary, the provisions of this
33 section shall expire September 1, 2025."; and

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35 Further amend said bill by amending the title, enacting clause, and intersectional references
36 accordingly.
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