

Legal & Pragmatic Tools for Conflict Resolution in Building Programs



PRACTICAL WAYS TO
PLAN FOR AND EXECUTE
COST-EFFECTIVE AND EFFICIENT RESOLUTION
OF CONSTRUCTION PHASE CONFLICTS



Agenda

2

MODERATOR'S INTRODUCTION

PRECONSTRUCTION PLANNING

COORDINATED CONTRACTS

MANAGEMENT TOOLS & PROCEDURES

QUESTIONS & ANSWERS



Panel

3

MODERATOR

Dr. Bonnie James

President/CEO, BRJ & Associates, LLC

PANEL

Charlie Ng

Interim Vice Chancellor

San Bernardino Community College District

John Dacey

Principal, Bergman & Dacey

Mark Edwards

Executive Vice President, BRJ & Associates, LLC



Preconstruction Planning for Conflict Avoidance

4

Comprehensive Planning

- **Strategic Planning**

The systematic planning of organizational mission, values, and strategies characterized by solid information, active participation, strong communication, high-quality outputs, and other hallmarks of excellent planning

- **Educational Planning**

Systematic review of programs, culture, history, personalities, constraints, and potential for the established mission and strategic plan of the institution

- **Operational Planning**

Tactical planning of technology, facilities use, staffing, and other resources in response to the Strategic & Educational Plans

- **Facilities Planning**

20-year planning for the facilities needs implicit in the Strategic, Educational, and Operational Plans and in consideration of existing facilities conditions

Process Planning

- **Project Delivery Planning**

- Choose Delivery Method
- Choose Team Format
- Vendor Selection Planning

- **Project Leadership Planning**

- Internal / External / Mixed

- **Construction Process Planning**

- Procurement Process
- Payment Process
- Change Management Process



Coordinated Construction and Professional Service Contracts

5

Public Entity Owners:

- Hold the contracts with all of the key team members
- Have the option and power to apportion risk fairly
- Control the money

***Use This Opportunity Early
or Effectively Lose It***

Well-Coordinated

Contracts Help Avoid These High Risks

- Un-delegated authority and unwanted owner obligations
- Conflicting authority and confusion on the construction site
- Failure to effectively apportion project risks
- Overlapping services = paying twice for those tasks
- Gaps in services = necessary tasks are unassigned
- Reduced financial incentive to perform



Coordinated Construction and Professional Service Contracts

6

Four Main Reasons Why Construction Projects Fail

Poor Drawings

Poor Contracts

Poor Execution

Poor Cash-Flow

Plan for Good Drawings

- Good drawings come from detailed, systematic oversight of design and construction document process to match the owner's risk tolerance

Create Good Contracts

- Coordinate duties, deliverables, and authority in advance
- Assign obligations to guard owner's risk to team members best suited for each type of risk

Plan for Good Execution

- Team members "own" the project
- Contract provisions understood and enforced
- Team members know their roles and procedures and act on them

Plan for Good Cash-Flow

- Cash is the lifeblood of construction
- When cash flows well, work flows well



Coordinated Construction and Professional Service Contracts

7

Keys to Coordinated Contracts that Minimize Project Risk

- **Explicit Obligations**
 - Duties clearly defined and “inclusive
- **Explicit Payment Provisions**
 - Fair, firm, and reasonable
- **Explicit Scheduling Provisions**
 - Fully enforced back-charges
- **Partial Agreement Change Orders**
 - Include expanded pricing and review requirements
- **Expedited Claims Process**
 - Owner-created to ensure parties’ interests – time/money/quality
- **Meaningful Close-Out Procedures**
 - Include retention, estimating, and back-charge provisions



Management Tools and Procedures

8

- **Management Process**

- Detailed Pre-Bid Instructions
- Construction Site Use & Campus Operational Planning
- Review *and Planning* Meetings
- Change Management
- Schedule Coordination Management

- **Contractual Procedures**

- Project Safety
- Project Start-Up
 - ✦ Base-Line Schedule
 - ✦ Submittals
 - ✦ Requests for Information
- Quality Control
- Construction Corrections
- Project Acceptance & Move In



Questions & Answers

9

Further Questions?

Dr. Bonnie R. James

bonnie.james@brjassociates.com

(626) 578-7277

Charlie Ng

chnng@sbccd.cc.ca.us

(909) 382-4021

John Dacey

jdacey@bergmandacey.com

(310) 470-6110

Mark Edwards

mark.edwards@brajssociates.com

(626) 578-7277

