

C.A.S.H. 29TH ANNUAL CONFERENCE ON SCHOOL FACILITIES

NEW PROGRAMS, NEW PROMISE CALIFORNIA SCHOOL FACILITIES 2008

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Room # 307

Workshop #41

What's My Line? Roles and Responsibilities of the Board, Superintendent, and Staff

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Roles and Responsibilities

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Attributes of a Successful Project

- Good team relationship
 - Trustworthy behavior
 - Acknowledgement of the other team members abilities
 - A good attitude toward other team members

Attributes of a Successful Project

- Establishing process and protocols early to address the processing of problems that arise on a project.
 - Procedures manual to ensure that a project continues to move forward when problems arise on the project
 - Methodology to handle errors and omissions
 - Methodology to approve payments so the contractor is not brought into disputes that may arise between team members
 - A position that the team members act together and communicate information to each other prior to dissemination to the contractor
 - Guidelines for discussions on change order work so discussions don't dissolve into an inquisition

Attributes of a Successful Project

- Procedures to avoid problems in the first place
 - Agreements should have each party's role well defined
 - Architect must undertake some responsibility for budget and estimating
 - Construction manager should do some level of constructability review and review of budgets
 - District should not encourage disputes between the architect and construction manager
 - Establishing contingency amounts for if the project should encounter unforeseen problems

Basics

- Teamwork is #1 – It's the people, involved in process, not programs!
- Value engineering and constructability reviews
- Allow enough budget
- Anticipate change orders
- Architect fees
- CM fees due to delays
- Unforeseen items happen during construction
- Underground conditions
- Change orders
- Weather related problems

The Architect

- Give the architect adequate time
 - Time must be structured time where milestones and responsibilities are set and carefully monitored
- Give the architect an adequate budget to ensure adequate and experienced staffing and to avoid having the architect lose interest in the project
- Get commitments as to the personnel that will be dedicated to the project
- Require site visits and investigation from architects and their professional consultants
- Knowledge of General Conditions and specifications

The Construction Manager

- Involve the construction manager in the process early
- Require the construction manager to participate in the process and don't allow the construction manager to be a vehicle that primarily assesses blame
- Require a constructability review and value engineering sessions in order to ensure construction manager buy in to the design process
- Require budget oversight and estimating responsibility
- Knowledge of the General Conditions and specifications

Inspectors

- Continuous inspection
- Liability for over-inspection
- What to do and not to do
- Interplay between the inspector and design professional
- Inspector credibility
- Organization and posting drawings
- Knowledge of general conditions and specifications

The District

- Make sure that program related items are laid out early in the process with the Board, Cabinet and sites
- Priority list with clear wish list items documented in writing
- Helps to avoid changes in the field afterwards
- Adequate time to obtain “buy in” from those with a vested interest
- Have a definite cut-off timing on decision making

The District

- Board policy on change orders and understanding of change orders from the outset
 - There will be change orders, but the goal is to work towards zero change orders
- Don't expect perfection
 - Standard in the industry is
 - 7% change orders for modernization projects
 - 3% change orders of new projects
- Require a single source for all District decision-making
- Have the ability to plan for at least one or two large owner generated change order

The District

- Pay attention to your design team
 - Ask the tough questions yet cultivate solutions
 - Lead the team
- Establish protocols for reporting
- Regular reporting
- Programming responsibilities
- Budgetary responsibilities
- Avoid having the design team create false expectations with the users or others with a vested interest

The District

- Owner presence on the school site and Board
- Avoid allowing the design team to be the sole voice of the District
- Avoid airing dirty laundry for your team
- Carefully assess the need for owner required changes during the project
- Don't design too close to the budget or provide an inadequate budget
- The problem is not always someone else's

The District

- District must try to select a compatible team
- Engage the public and always plan for the next project
- District must maintain a professional relationship with its consultants

Assistant Superintendent of Business

- Report budgetary information and change order totals regularly to the Board
- Avoid school site generated changes during construction
- School site generated changes during construction
- Reserve some money to do afterwards
- Board generated changes during construction
- Don't micromanage

Assistant Superintendent of Business

- Some items require follow-up
- Unusual architect caused change orders
- Unusual delays due to design errors
- Lack of diligence by the contractor or architect
- Inspector failures
- Timing of when to follow-up

Assistant Superintendent of Business

- Consensus is nice, but you don't always get complete consensus
- Sometimes its time to move on in the decision making process or money will be wasted
- Clear lines of responsibility on budget and funding
- Make sure you have the money and contingency clearly outlined to Board
- Regular Board updates

Facilities Director

- Things to avoid
 - Unrealistic expectations on budget
 - Significant changes in the field
 - Calling the architect out during construction meetings
 - Accelerating the project
 - Disruption of the contract

School Board

- Avoid micro-management
 - Outline Specific types of questions
 - Budgetary questions
 - Change order value
 - Outstanding change order value
 - Schedule
 - District related items that need to be completed
 - Payment delays

Oversight Committee

- Clearly define role
- Clarify the exact information that will be provided
- Oversight Role is different from construction oversight
- Impossible for an oversight committee to understand all facilities throughout the District

The Attorney

- Have a knowledgeable public works construction attorney.
- Listen to the attorney's advice carefully.
 - The attorney's negative advice on a matter can be extremely important
- Avoid an attorney who is too litigation oriented.
 - However, the attorney must be ready to proceed to litigation or take a matter to trial in cases where the need becomes apparent
- Don't allow confrontational or combative behavior unless absolutely necessary.
- Make sure the contract documents that are being used are the best possible from the outset of the project.

Preventative Maintenance

- Regular budgeting updates in writing
- Set a budget that is placed in writing
- Constructability review
- Program buy in from those with a vested interest

General Issues (Close Out)

- Is the Project in Close Out or is the Demand for Close Out Premature: is the project “Substantially complete”
 - All contractually required work must have been installed - even if improperly installed;
 - All life safety items must be operational (except due to Architect errors or omissions);
 - Don't Confuse a Close Out Issue with Bad Behavior from a Claims Oriented Contractor: Try to determine if the close out problem is due to bad behavior, demands for payment which are unwarranted or other non-performance based reason. If so, then the close out issue may be mixed with legal close out issues improperly.

General Issues (Close Out)

- Issue a Directive Demanding Work from the Contractor and Copy the Bonding Company
 - Give adequate time, usually contractually determined, for the Contractor to perform the tasks directed;
 - Don't terminate the Contract if the Contractor is continuing to work – even if the work is slow.

General Issues (Close Out)

- Irrespective of the Relationship with the Contractor Don't Waive Legal Requirements for Written Notification of Liquidated Damages at the Proper Juncture.
 - Notify the Architect and have the Architect perform a critical path analysis of when liquidated damages should commence.
 - Have the Architect notify the District and copy the Contractor, at a minimum.
 - Make sure the Contractor is aware that they have entered a liquidated damages period.

General Items during Construction

- Construction
 - Avoid allowing sites to interfere with work
 - Assign District personnel to address changes that are sought from the sites
 - Timely responses to RFI's and Change Orders
 - Timely and well reasoned evaluation of claims by contractors
 - Huber, Hunt and Nichols quasi-judicial immunity discussion
 - Regular site investigation
 - Relationship with inspector
 - Be cognizant of Architect personalities and if the Architect is avoiding contact on unpleasant matters. This can be costly for the District
 - Require knowledge of the general conditions language
 - Its all in how the architect works through problems, not that there are problems
 - What is the relationship with the CM

End