



YOUR 50 STATE PARTNER®

WIC Tuesday Talks: Design/Construction Collaboration and Inclusion

Presented by:

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May 24, 2022

Presenters



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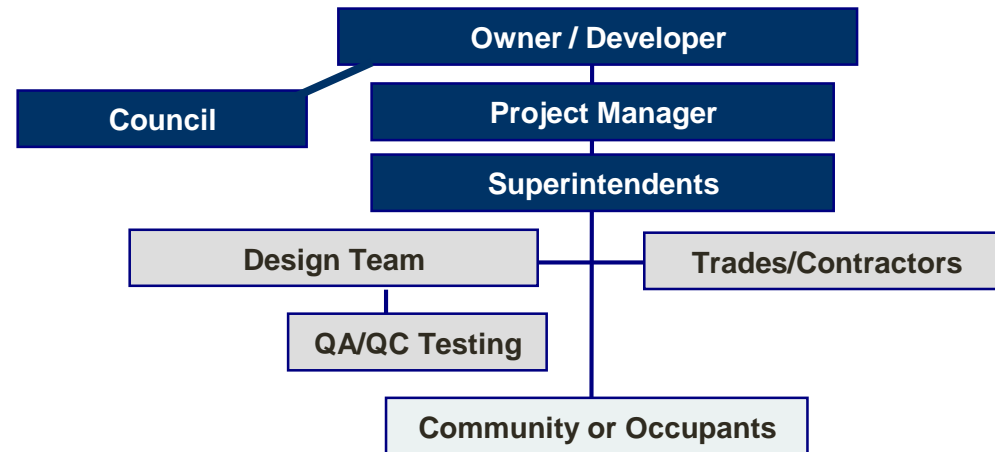
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Roles on a Project

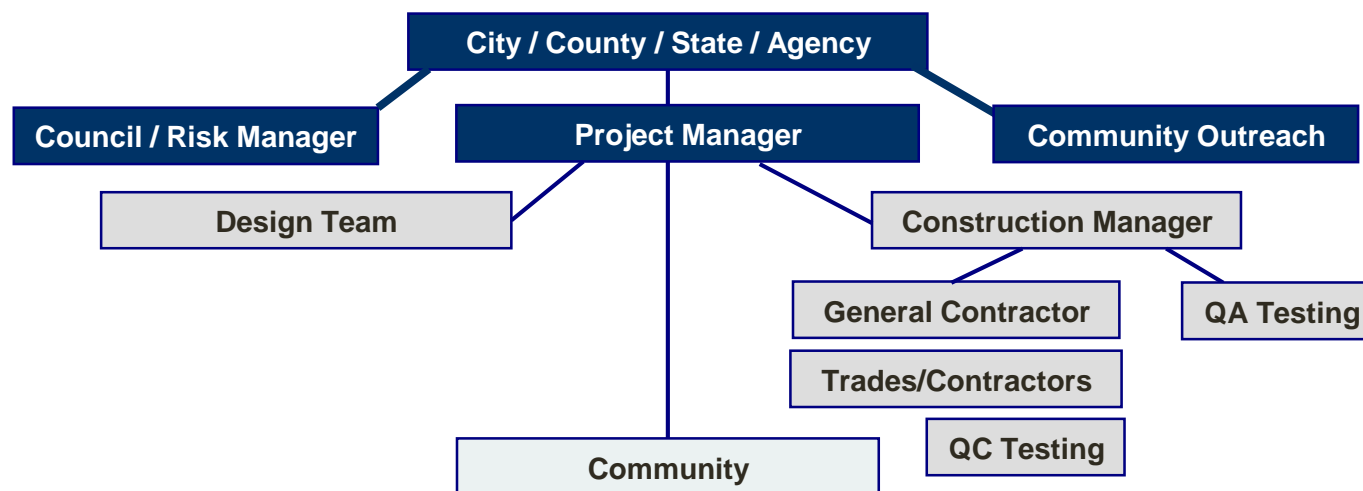
- Owner – Developer, City, County, State, Federal, or Agency; including In-house Counsel/Risk Manager, Project Managers and Superintendents
- Design Team – Engineers, Architects, Planners, and QA/QC Team
- Construction Team – General Contractor, Construction Manager, Contractors, Trades, and QA/QC Team
- Stakeholders – Community or other End User



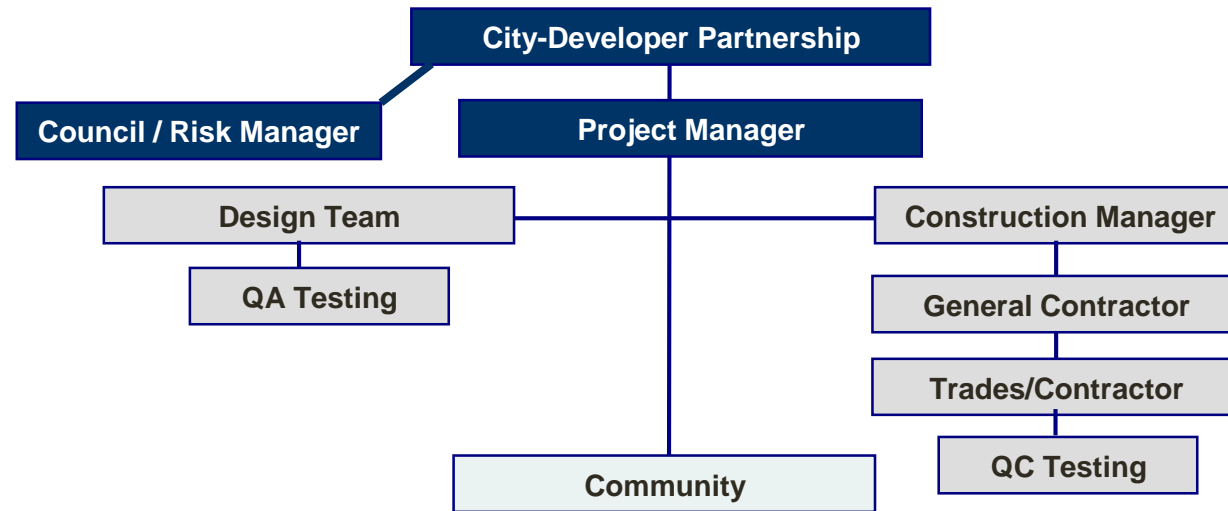
Private Project



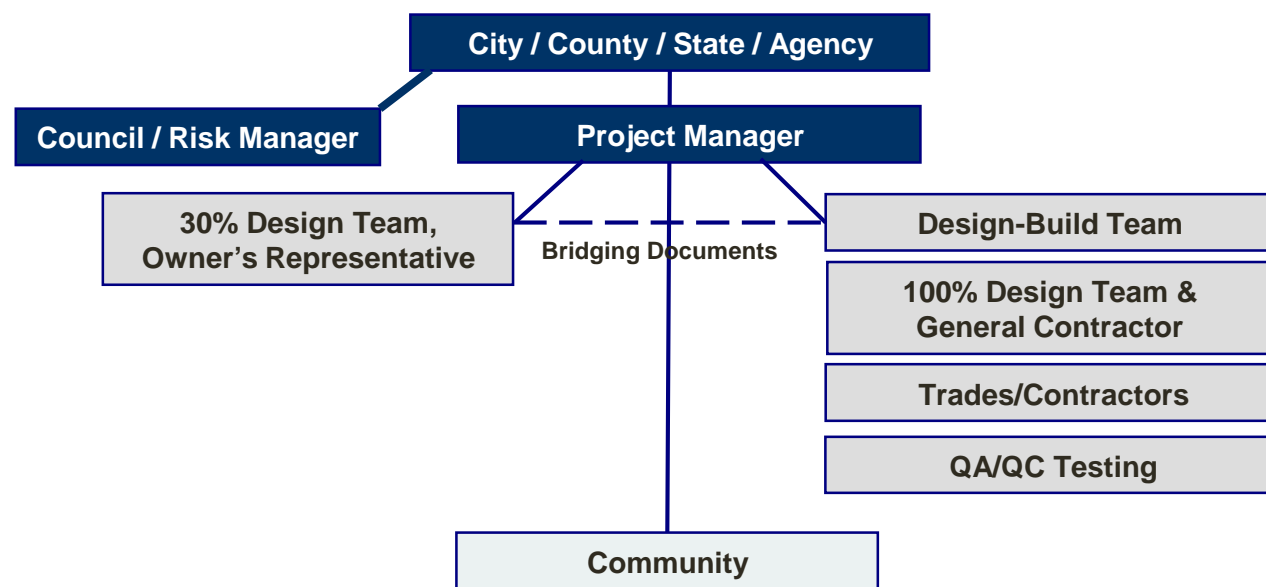
Public Project



Private-Public Project



Design-Build Project



Internal Group – Organization of Team Roles

- Understanding of contracted work & work by others
- Best Practices
 - Each Firm identifies 1 spokesperson to Owner, even if multi-disciplined firm for communications
 - Each Firm identifies, at most, 1 spokesperson per discipline to Project Manager and Construction Manager
 - Spokesperson facilitates weekly team check-in with running list of topics: progress tracking, look ahead, scope creep, budget, and deadlines
 - Spokesperson provides weekly update to Project Manager or Construction Manager to keep all abreast of progress and on top of tasks, budgets, and deadlines.
 - Each discipline lead manages their tasks and keeps the Spokesperson informed

Project Group – Lines of Communication

- Requests for Information (RFI)/Request for Clarification (RFC)
 - Ensure mutual understanding and agreement
 - Key if dispute later
 - helps flag potential other issues or clarifications needed
- Owner/Contractor
 - Understanding of contractual obligations
 - Setting standards early for lines of communication
- Safety Issues & Communication
 - Everyone must know roles and responsibilities for safety
 - Lines of communication when and if incident occurs
 - Lead for investigations



Project Group – Lines of Communication (cont.)

- Troubleshooting Issues, Discrepancies, or Disputes
 - PM or CM to address timely and close out timely, don't linger or wait until the end
 - Ideally Applicable Firms work together to solve items or issues, and then updates the larger group
 - Organize finalized designs, documents, and updates in a Project-Wide depository with “key” or summary table with dates and who responded



Project Group – Lines of Communication (cont.)

- Diversity Awareness
 - Very diverse teams from owners and designers to contractors
 - Project Manager and Construction Manager sets the tone at meetings that every voice is to be heard and to be respectful
 - PM or CMs are accountable responding to concerns
 - Field sites are equipped appropriately with ADA and Gender appropriate facilities
- Progress Check Points
 - Owner Architect Contractor (OAC) meetings
 - Project coordination meetings



Legal Issues

- Contract Requirements Usually Address Proper Steps to Take in Contract Dispute
- Conflicts between Design & Construction Often the Source of Issues on a Construction Project
- Architect can be Identified as Initial Decision Maker under AIA contract terms
- Public Contracts Must Be Modified by Written Change Order and Not Course of Conduct



Public v. Private Contracts

- In public contracts, contractual change order requirements cannot be waived through conduct or oral agreement. The rule against oral modification of contracts for public works was set forth in the ruling of *Katsura v. City of San Buenaventura* (2007) 155 Cal.App.4th 104, 65 Cal.Rptr.3d 762 (Katsura), and further examined and upheld in *P&D Consultants, Inc. v. City of Carlsbad* (2010) 190 Cal.App.4th 1332, 1340-1341.



Diversity & Inclusion Advancements

- Contractual Commitments for Public Projects

Sample Language:

1.1 **Supplier Diversity**

- 1.1.1 Company recognizes the economic importance of diverse suppliers such as minority-owned, women-owned, and all categories of small business concerns to the community. Company is committed to developing strong working relationships with diverse suppliers, provided that such relationships provide value both to Company and to diverse suppliers.
- 1.1.2 Company seeks to include diverse supplier participation in its procurement of goods and services. Non-diverse prime contractors should seek to include diverse suppliers in the performance of Work.
- 1.1.3 Company, or one or more of its corporate affiliates (“Affiliate”), is a contractor to the United States Government under an Area Wide Agreement to sell natural gas and other service. Such Affiliate is required under 48 CFR 52.219-8 and 9 and other regulations to develop a subcontract plan for utilization of Small Business Concerns (“SBC”) and Minority and Women-Owned Business concerns (“MWBE”), and to report to the General Services Administration Agency the actual results of Affiliate’s Small Business Subcontracting Plan. In addition, Company, or one of its Affiliates, is required under the Texas Utilities Code §39.909 to report spend associated with SBC and MWBE suppliers.

Diversity & Inclusion Advancements (cont.)

- 1.1.4 In support of Company's obligations set forth above, Vendor shall collect and report to Company its direct second-tier MWBE and Small Veteran-Owned Business ("MWBE/SVET") spend on a per contract, quarterly basis. While Company recognizes that certain goods or services may present limited opportunities, Company expects that the amount of such spend will take into account the maximum practicable opportunities, consistent with efficient and effective supplier performance. Company will evaluate Vendor's demonstrated commitment to maximizing spend with diverse suppliers on an ongoing basis.
- 1.1.5 Company will provide forms and instructions for reporting Vendor's second-tier spend. Vendor's reporting results will be aggregated with other Company vendor results, and will be used internally as well as included in federal, state, and industry required filings.
- 1.1.6 In addition to reporting requirements, Vendor may also be required to participate in Company directed supplier diversity outreach and development events such as workshops, expos, forums, trainings, networking, and mentoring in Company's footprint.
- 1.1.7 Company asks that Contractor be aware of the policies above and support them.

Diversity & Inclusion Advancements

- Contract Documents
 - In California, many Response to Proposals (RFPs) for public projects have a % of Total Fee requirement for disadvantaged businesses (including women business enterprises, WBE, and minority business enterprises, MBE) as part of the selection process points.
 - Some Owners and Project/Construction Manager contracts require diversity information from teaming partners



Looking Forward vs. Looking Backward

- Local and National Organizations established for diversity
 - SWE, Society of Women Engineers, 1950
 - NAWIC, Natl Association of Women in Construction, 1953
 - ASCE, Younger Members Forum, 1966
 - WIC, Women in Construction Conference, 2006
 - AGC, Associated General Contractors, Diversity and Inclusion Council, Culture of CARE (commit, attract, retain and empower), 2020
- Looking Forward:
 - “One Team” mentality is becoming the standard
 - Lead team members set the tone on collaboration and respect in meetings and in the field.



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Questions?

MCLE & CE

- MCLE credit will be offered in California and in jurisdictions that have reciprocity agreements with California (AK, AZ, CT, FL, HI, MD, MA, MI, NJ, NY).
CE credit will be offered in California, Texas, and Florida.
- If you would like to receive attorney MCLE or CE insurance credit, please leave a note in the comments section of the survey or you may contact us at marketing@grsm.com.
- Presentation materials and a recording will be emailed to all attendees. You may also visit the firm's Women in Construction Tuesday Talks Webinar Archive to access our previous recordings at <https://gordonreeswebinars.com/women-in-construction/>.
- If you have any questions, please contact us at marketing@grsm.com.

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