

Successful Projects Start With Smart Planning

Owners should check off 10 steps – both strategic and contractual – that can lead to success on a project and cut down on unnecessary litigation, delays, or worse outcomes like job shutdowns and bankruptcy.

By John Osborn, Esq.

During a construction or renovation project, problems are inevitable. Disasters are not. At the end of the day, advanced planning is the only way to prevent typical problems from turning into disasters.

At the beginning of the capital development process, the owner must assemble a team that sets the strategy for planning, designing, and constructing a project.

The owner's strategic team is best comprised from the outset of the architect, construction manager, and owner's representative. The owner should also have lined up on this team a construction attorney, an in-house engineering or facilities director, and an executive decision-maker, such as a president or board chair.

In setting strategy, the team must anticipate potential problems and incorporate safeguards. Otherwise, problems that can cause severe shortcomings in budget, schedule, or quality can lead to abandoning the project or even bankrupting the owner.

But there are basic actions an owner can take at the outset of the capital planning process to avoid deep pitfalls. Based on 30 years of planning, troubleshooting, mediating, arbitrating, and litigating construction disputes for clients, we've identified 10 construction disaster prevention tips for owners.

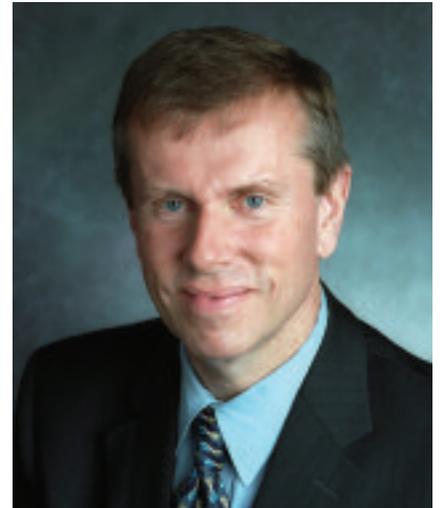
1. Assemble a strategic team at the outset of the capital planning process.
2. Prepare your own contracts for design and construction in your favor. In other words, set the rules and play by the rules.
3. Establish ground rules and procedures for evaluating increases in scope and price.
4. Fully develop the architect's design and know the estimated cost as the design evolves. Do not bid before the design is complete. Do not bid before

you know the project cost. The answer is careful preparation, not value-engineering and re-bidding.

5. Know your impediments and clear them. The owner must know about and address wetlands, utilities, zoning, underground tanks, and asbestos. Do not let these factors delay you during construction.
6. Look for potential changed conditions and disclose them to potential bidders. If the contractor discovers changed conditions such as subsurface rock, underground springs, or unanticipated soil conditions during construction, it can be inordinately expensive to correct. If you discover them pre-bid, you can work around them and bid the work cost-effectively.
7. Set the claim resolution procedure at the outset. Get the procedure into every one of your contracts consistently. Establish the strategic, investigatory, and decision-making roles of the architect, construction manager, construction attorney, owner's representative, and president or board chair. Solve each problem promptly as it arises during construction. While settlement discussions or mediation during the project are essential, the owner should avoid binding dispute resolution through the courts or arbitration. If you must enter binding dispute resolution, the courts are clearly preferable to arbitration.
8. Keep the project moving during dispute resolution. The contract must require it. Prompt, strategic, and diplomatic action on the part of construction counsel allows the project to move ahead even in the face of the worst project disputes. To avoid significant financial damage to the project,

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owners should not fire contractors. Likewise, contractors should not quit.

9. Establish and follow consistent and clear lines of communication among the project team members. It is critical that the team follow up weekly project meetings immediately with accurate job meeting minutes.
10. The owner must consistently monitor performance of each of the project participants and weigh in on decision-making. It must monitor the basic life signs – schedule, budget, and quality – consistently.

It is very simple. The owner can, and must, define the playing field by setting the rules, drafting the contracts, and controlling the project. This top 10 list for project success offers owners a clear call to action.

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