Insuring The Public Construction Project:
A Real World Application

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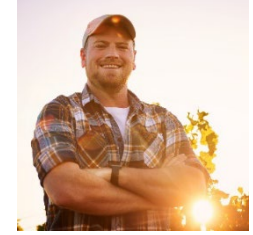

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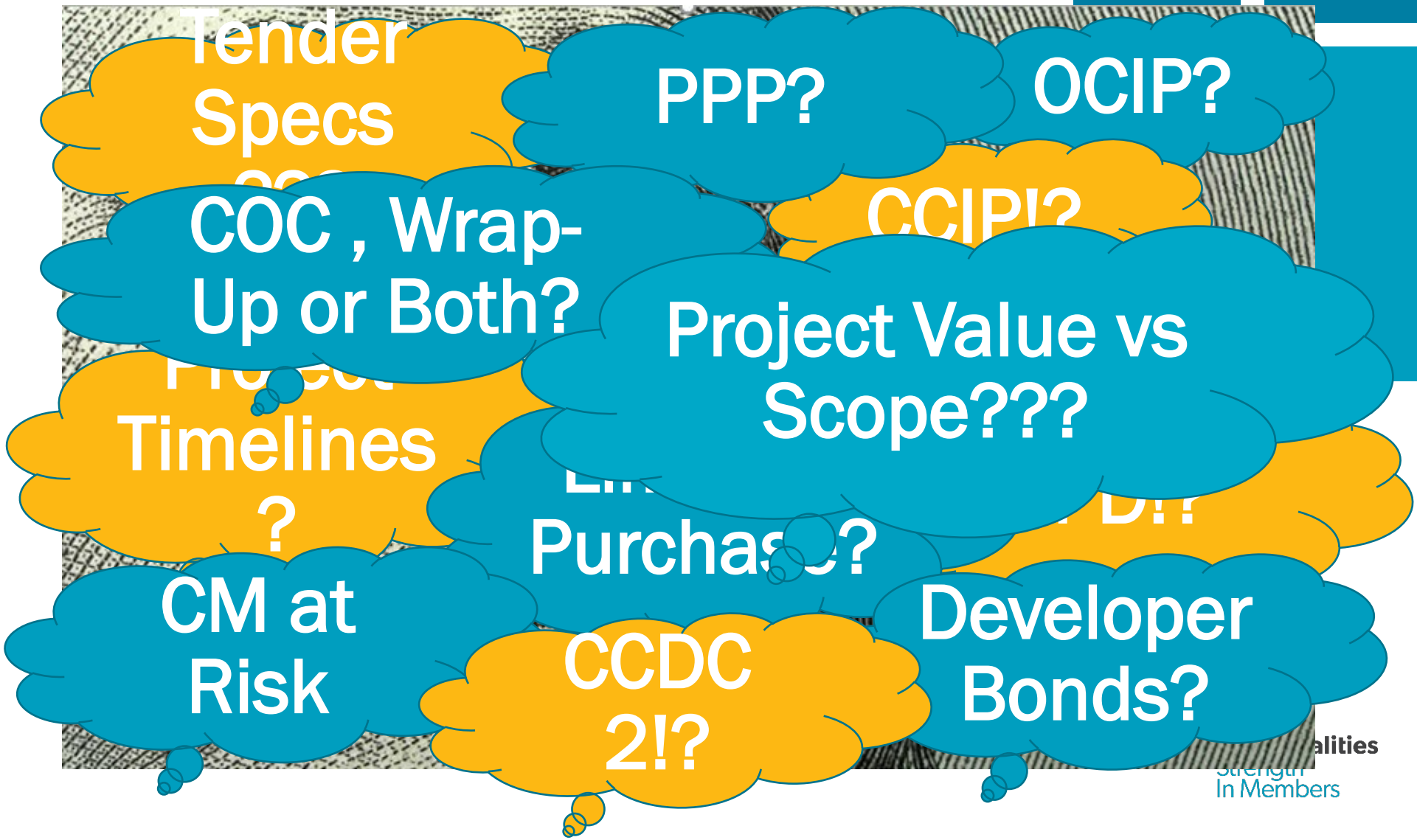

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Agenda

- COC & Wrap Up
- OCIP VS. CCIP
- Timelines and proper drafting of tender specs
- Project delivery models/ impacts to insurance
- Project type and size/ insurance type thresholds
- Claims Scenarios
- Surety/Developer Bonds
- Closing Remarks
- Q/A

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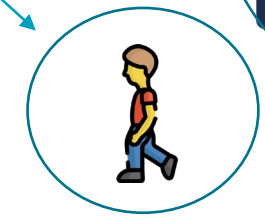
Construction Insurance

Overview

Project damage = Course of Construction

Property damage (existing structure) = Wrap Up

Injury = Wrap Up



Damage = Wrap Up

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Wrap Up Liability

- Covers 3rd **party liability** arising out of the project
  - Bodily injury and property damage
- Completed Operations coverage: damage to the project arising out of the completed work following substantial completion
- Named Insured = Owner, GC, subcontractors of every tier, architects, engineers
- Provides first and single point of any liability claims on a project site
- Eliminates “cross claims” between parties and the determination of negligence

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Course of Construction

- AKA “Builders Risk” or “Property All Risks”
- Covers 1st party exposure (ie. project under construction)
- Named Insured = Owner, GC, subcontractors of every tier, architects, engineers
- Limit = Contract Value (hard costs + soft costs)
- Hard costs: materials and labour
- Soft costs: financing, insurance, consulting fees, etc.

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Project Insurance

Procurement Options

- **Owner-Controlled Insurance Program ("OCIP")**
  - Owner procures the COC, Wrap Up, and any other project-specific insurance policies from their broker
- **Contractor-Controlled Insurance Program ("CCIP")**
  - Owner requires the prime contractor to provide all necessary insurance policies as outlined in the specs, including but not limited to COC, Wrap Up, Professional, Pollution, etc.
  - Contractor can provide coverage through their annual "blanket" program or on a project-specific basis

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OCIP vs CCIP

Considerations for the Public Project

OCIP

- Quality of Coverage
- Program Administration
- Economies of Scale
- Claims Procedure and Loss Settlement

CCIP

- Economies of Scale (in most cases)
- Exemplary Safety Profile of Contactor can Translate into CCIP Premium Credit
- Less Administration for Municipalities

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Timelines/ Drafting Specs

- Early contact with Alberta Municipalities allows for early assistance in determining best method for mitigating or transferring risks arising from construction
- Insurance specs need to be clear and concise to ensure bidders are pricing accurately
- Contractor confusion = increased contingency/ margin in tender price
- Option to have contractor price project insurance while also providing Owner an option to procure insurance
- CCDC with appropriate supplementary conditions, or custom contract language

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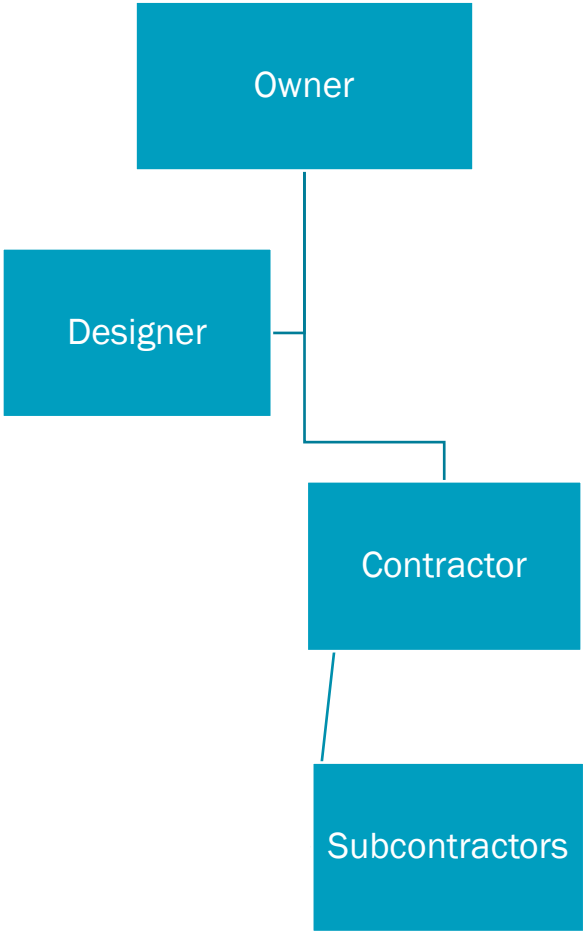
Project Delivery Models

Design-Bid-Build



- 2 contracts with Owner
- 3 defined and sequential stages
- Designer (consultant) selected by Owner
- Detailed specs included in tender package; prepared prior to construction start
- Minimal collaboration between designer and contractor

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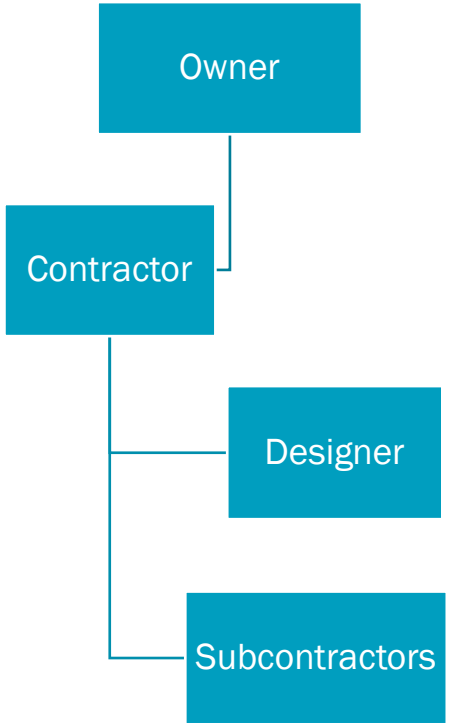
Project Delivery Models

Design Build



- 1 contract with Owner
- Stages not clear/ lots of crossover
- Owner selects design-build contractor; contractor selects consultant(s) as needed
- Collaboration between designer and contractor

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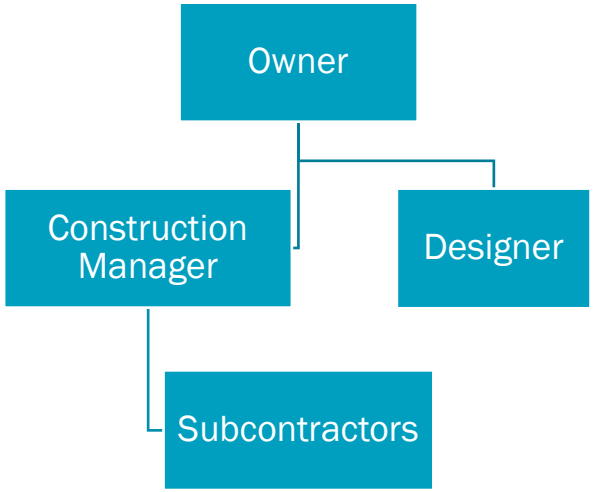
Project Delivery Models

Construction Management (at risk)



- Similar to DBB method
- 2 contracts with Owner
- Stages not as clear as DBB
- Designer selected by Owner
- Contract with CM when design process is underway (30-60%)
- Intent is to create stronger collaboration between CM and Designer, with increased Owner involvement

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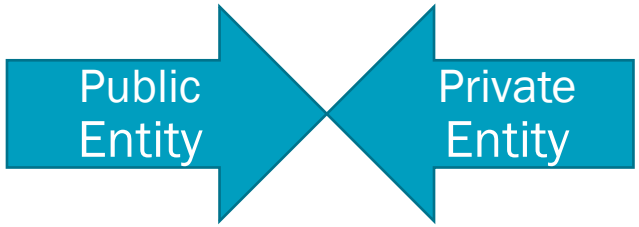
Project Delivery Models

Public Private Partnership



- Long-term approach for procuring infrastructure
- Private entity finances, plans, designs, builds, maintains
- Risk pushed to private industry
- Model used with projects requiring long term construction and maintenance
- Cost certainty over long term is key focus

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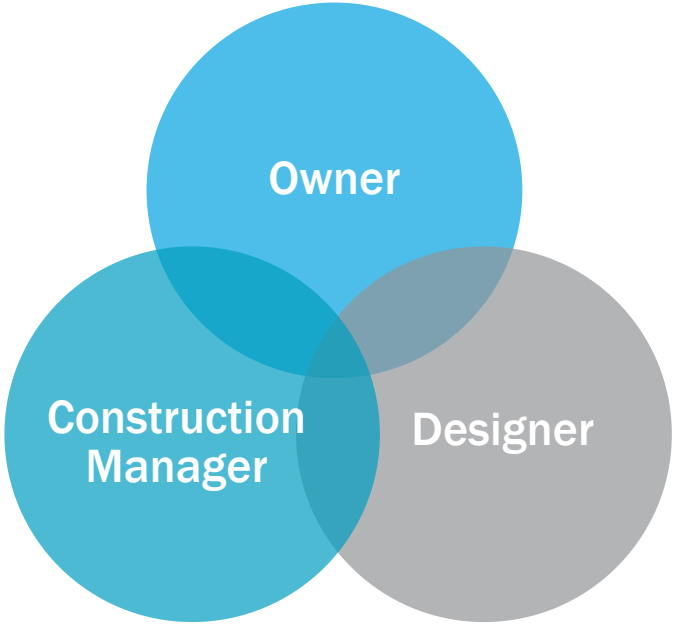
Project Delivery Models

Integrated Project Delivery



- 1 prime contract
- All parties (poly party members) sign single contract
- All parties involved in design phase; long process before any construction begins
- Risks and rewards (incentive layer) shared equally among all entities
- Unique contract clauses
- Intent to drive further collaboration among key parties to the project

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Project Delivery Models

Why the shift?

- Project delays
- Cost overruns
- Change orders
- Design challenges and claims
- Disputes and litigation, subsequent payment issues and increased cash flow risks for contractors
- Owners looking to reduce risk by increasing collaboration and incentive to complete project on time and under budget

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Project Delivery Models

Professional Liability

- DBB – prime consultant largest design exposure
- DB – larger design exposure shifts to contractor
- IPD – all poly party members take on design responsibility due to early collaboration, therefore all have increased risk
- With “strict” IPD contract, Owner has limited right of recourse against IPD parties on design issues
- If too many exceptions to IPD contract, many benefits of the model are lost (ie. allowing suits between parties)
- Owners can’t rely on parties’ annual E&O policies alone due to nature of wordings, therefore critical to procure Project-Specific Professional Liability (PSPL)

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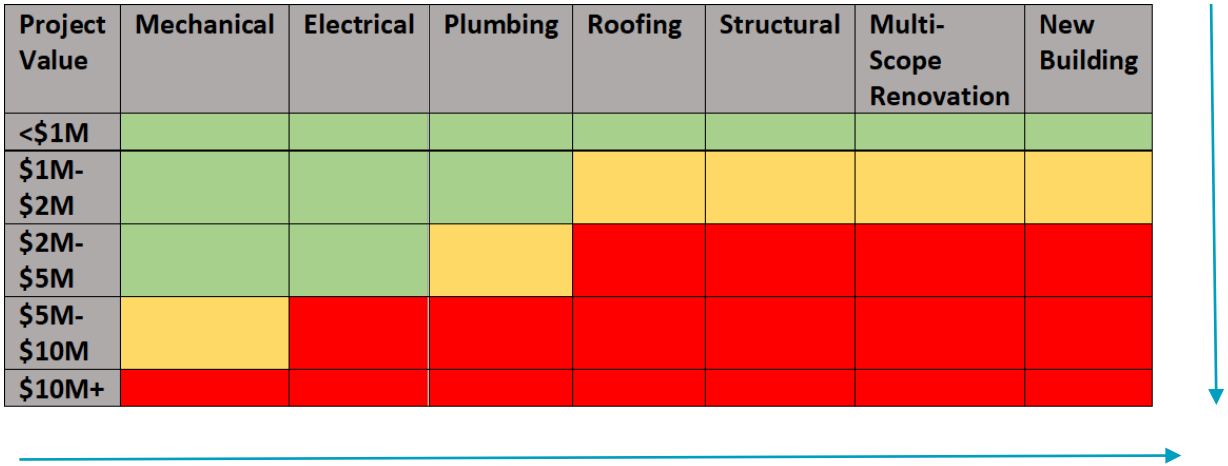
When to Purchase Project Insurance

Project Value and Scope of Work

Project Value	Mechanical	Electrical	Plumbing	Roofing	Structural	Multi-Scope Renovation	New Building
<$1M							
$1M-$2M							
$2M-$5M							
$5M-$10M							
$10M+							



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When to Purchase Project Insurance

Additional Considerations (COC)

- Value of the project (materials, labour, soft costs)
- Duration of the project
- Higher value components/ systems
- Contractor “Installation Floater” as alternative to COC
- Insulate annual property policy from losses

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When to Purchase Project Insurance

Additional Considerations (Wrap Up)

- Value and duration of the project
- 3rd party exposures – early occupancy, public accessibility, vehicle/ road proximity, neighboring buildings
- Risk tolerance of the owner
- Insulation of the annual liability program from losses
- Administrative capacity to review contractors' certificates

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Claims Examples

Course of Construction

- Property damage from fire that breaks out in new building under construction arising from suspected arson
- Water damage caused by newly installed pipe that bursts due to freezing
- Theft of lumber from active job site
- Painter hits sprinkler head triggering system to activate causing significant water damage

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Claims Examples

Wrap up

- Contractor doing roofing repair on existing building leaves job site for the day and flare up occurs after hours causing large fire to break out leading to damage of building
- Windstorm rips plywood off building under construction that hits pedestrian causing bodily injury
- Crane collapses causing damage to neighboring building and parked cars
- After substantial completion, water line bursts causing flooding in the building
- Construction is underway on addition to existing building; fire breaks out and causes damage to project and existing structure (project damage covered by COC, damage to existing covered by Wrap – subject to clause)

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Developer Surety Bonds

History

- Many Canadian municipalities accept only Letters of Credit (LCs) as security
- Industry and municipality collaboration to craft a commercially viable Development Bond instrument that is a practical alternative to LCs
- Different from construction bonds, which are “default” instruments, developer bonds are “pay-on-demand”
- City of Calgary became the first major municipality to accept the Bond
- Multiple municipalities have since begun accepting the Bond across Canada

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Developer Surety Bonds

Overview

- Bond provides financial assurance to a Municipality that a Developer will successfully complete all obligations under the development agreement
- Bond may be reduced, and ultimately released, upon achievement of Construction Completion Certificates and Final Acceptance Certificate
- Improves liquidity for Developer (frees up cash for project)
- Funds freed up for further investment in the community
- Provides Municipality with same financial assurance as LCs
- Surety prequalification provides Municipality with additional assurance of Developer's ability to successfully complete development (rigorous underwriting process)

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Closing Remarks

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