Top Ten Construction Contract Issues Facing Colleges and Universities

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Topics to Cover

- Drafting issues
- Coordination issues
- Administration issues
Drafting Issues

• Key Theme: Protect Your Projects With Well Drafted Contracts
Drafting Issues (continued)

• Issue No. 1: Control of the Form
Drafting Issues (continued)

• Issue No. 1: Control of the Form
  – The party that controls the form, controls the contract
Drafting Issues (continued)

• Issue No. 2: Key Contract Provisions
Drafting Issues (continued)

• Issue No. 2: Key Contract Provisions
  – Scope of Work
  – Time/Schedule
  – Claims
  – Termination
  – Risk (Surety and Insurance)
  – Risk (Indemnity)
  – Payment
  – Limitation of Liability/Damages
  – Liquidated Damages
  – Conflict Resolution
Drafting Issues (continued)

- Issue No. 3: Insurance/Surety
Drafting Issues (continued)

• Issue No. 3: Insurance/Surety
  – Ensure that you are properly Insured
Drafting Issues (continued)

• Issue No. 4: Dispute Resolution
Issue No. 4: Dispute Resolution

- Litigation v. Arbitration
Drafting Issues (continued)

• Issue No. 5: Liquidated Damages
Drafting Issues (continued)

- Issue No. 5: Liquidated Damages
  - Advanced planning needed
Coordination Issues

• Key Theme: Ensure Contract Coordination
Coordination Issues (continued)

• Issue No. 6: Coordinating Scope of Work and Responsibilities
Coordination Issues (continued)

• Issue No. 6: Coordinating Scope of Work and Responsibilities
  – Multiple contracts must be coordinated to avoid gaps
Coordination Issues (continued)

・ Issue No. 7: Dispute Resolution
Coordination Issues (continued)

• Issue No. 7: Dispute Resolution
  – Dispute Resolution **Must** be coordinated
Administration Issues

• Key Theme: Poor Administration Defeats a Good Contract
Administration Issues (continued)

• Issue No. 8: Project Documentation
Administration Issues (continued)

- Issue No. 8: Project Documentation
  - He who has the best documents usually wins the dispute
Administration Issues (continued)

- Issue No. 9: Protecting Against Liens
Administration Issues (continued)

• Issue No. 9: Protecting Against Liens
  – Be familiar with your local laws regarding liens
Administration Issues (continued)

• Issue No. 10: Timely Assertion of Claims
Administration Issues (continued)

• Issue No. 10: Timely Assertion of Claims
  – Late claim equals No claim