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The Florida Design-Builder

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CHANGING DYNAMICS IN CONSTRUCTION INDUSTRY NECESSITATE CREATIVE SOLUTIONS

LETTER FROM THE PRESIDENT

by John A. Giachino, 2006 DBIA-FC President



John A. Giachino
Regional Director,
Client Services
Boyle Engineering
Corporation

Some things in the construction world never change. Forces remaining constant include the same quality, schedule and cost motivators driving public and private owners as before.

Other factors, particularly those driven by market conditions, have necessarily caused change in the construction industry. One major dynamic that has emerged in a big way this year is ever and rapidly increasing construction costs. Today's construction materials environment is forcing owners and builders alike to face new challenges in reaching their cost and

pricing goals. According to the June 2006 issue of *Engineering News Record (ENR)*, PVC pipe prices are between 13 and 27% above a year ago. Copper pipe prices doubled in some cities and are now between 40 and 80% higher than a year ago. The 20-City Materials Cost Index (MCI) for cement is up 8% from a year ago while steel is up 8.4%.

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CHAPTER APPROVED PROVIDER OF CONTINUING EDUCATION

The Florida Chapter of DBIA was recently approved by both the Florida Construction Industry Licensing Board (CILB) and AIA to provide continuing education credits.

"We see this as an added benefit to our membership," said John Giachino, Chapter President. "We have had requests to offer additional CEU's, and we are pleased to be able to do so."

The first course to offer the contractor credits will be *Design-Build Contract & Risk Management* scheduled for Oct. 13 in Fort Lauderdale. AIA credits are being offered at the 2006 Annual Conference in Stuart. Additional courses will be added in 2007.

Maybe an even bigger issue is availability of labor. Again according to ENR, wages are up 3 to 3.9%. Simply put, skilled and unskilled labor is more expensive and harder to come by.

The phased design-build delivery method is a successful approach being used today to effectively deal with rapidly escalating materials and workforce costs with a minimum of pricey contingencies while equitably allocating cost risk at the appropriate time. Using a two-phased approach, the transfer of final cost responsibility happens later in the project cycle when the actual construction schedule will better match market conditions, resulting in a collaboratively derived, lowest cost contingency solution.

Phase I proceeds using a Qualification Based Selection (QBS) process to choose the design-build team based on qualifications, experience and best solution concepts. Phase I concludes when the design team has completed 60% or even up to 90% of the design, and the final pricing and transfer of cost risk to the design-builder takes place. The further into this process, the more input the owner has. This allows the owner and the design-builder to remain focused on technical solutions and schedule before casting cost liability in concrete, as it were. During the second phase, final design is completed and the construction stage of the project proceeds. With this phased approach, everyone wins. The owner gets the project it wants delivered at the lowest cost and the design-builder obtains a reasonable return.

Just the other day I was discussing another change we are experiencing here in Florida with a city public

works executive. He was lamenting that his organization has received only one bid on several recent larger conventional design-bid-build projects from less than stellar companies. To add insult to injury, in each case the solitary bids were substantially higher than the engineer's estimate of probable cost. Why is this happening? At least partially because the high volume of public and private sector construction in Florida today is allowing the best builders to become especially selective about projects they bid. My public works friend grumbled about having to re-bid his projects and the resulting time and expense to do so.

For this reason, he said, design-build project delivery is becoming of more interest to him and his organization. I suggested that he select an upcoming project that lends itself to design-build delivery and use the two phase QBS design-build approach. This will help the city attract and select qualified, competent design-build partners who are committed to meeting the city's quality, schedule and cost objectives. In the end, by using the design-build approach, owners thereby encourage quality-focused competition and get a well designed and built project, which is delivered on time and within budget.

I would like to hear how owners and design-builders out there have dealt with these other construction challenges. Plan to attend our upcoming 2006 Annual Conference and Business Meeting at the Hutchinson Island Marriott on November 9-10. Our conference theme is "Crossing the Bridge Together." Owner, designer, builder, legal and surety perspectives will be presented on topics including those I've highlighted here. A full afternoon will be dedicated to sessions where you can discuss your challenges with fellow owners and practitioners in facilitated, interactive breakout discussions. Then our facilitators and experts will help us bring together the challenges and potential resolutions discussed in the breakouts to give you real take home solutions that work for owners and design-builders alike.

Please don't miss this opportunity to articulate your needs, lend your ideas and obtain insights you can apply to your construction projects. I hope to see you there.

OWNERS COUNCIL

The Owners Council was recently formed to better serve the needs of our owner members. The Council is **for** owners and **by** owners. The purpose of the Council is to spread the message of design-build best practices among private and public owners in all industry sectors and to serve in an advisory capacity to the Board. All owner members of DBIA are automatically members of the Council, and we encourage your involvement.

WHERE HAS THE PROPERTY INSURANCE MARKET GONE?

by Tom Donnelly, ARM

By now almost everyone has heard about the struggles home owners have been facing when trying to find appropriate and affordable property insurance coverage, and I'm no exception. But few know that business owners have been facing the same problems without the press coverage for almost as long. The Florida property insurance industry has hit one of the hardest points in recent history.

There are many factors that attribute to the shortage of property insurance capacity in Florida. One of the reasons driving this shortage is the number Seven. Seven of the top ten costliest property loss hurricanes occurred during a fourteen month period spanning from August 2004 to October 2005. You then add in the increased cost of construction, both new and reconstruction, increased property values, and the number of people moving to Florida daily driving up demand, and you have a whale trying to squeeze into a fish bowl. There's just not enough room.

Capacity is the main issue. Reinsurance, which is essentially insurance



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for insurance companies, has a limited amount of capacity. Meaning they can only handle so much exposure in a certain area before they reach a level in which they feel over exposed. All of the factors previously mentioned have attributed to the limited capacity in the marketplace. Although reinsurers can track their capacity levels down to the very longitude

and latitude of exposures, they are still very limited.

Because of this limited capacity, insurers have reserved space for many of their large value schedules, which include a number of the companies, public and private, with which our members do business. Because of their limitations, however, many of the insurers are not renewing many small business policies upon expiration, or offering renewal pricing double and sometimes triple that of expiring. Not to mention some wind only carriers are all together canceling midterm.

What does this mean for you? Have a plan in place to be able to begin marketing your insurance program 90 days before your program

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COMING TO
FORT LAUDERDALE



Design-Build Contracts & Risk Management

Oct. 13, 2006

This course focuses on applying effective contracting language as well as insurance, bonding, and surety products, and strategies to successful design-build project delivery. Key issues relevant to public and private sector owners and design-build entity teams are addressed, making this seminar a must attend for anyone utilizing integrated project delivery.

www.designbuilddeducation.com

Now approved for Florida
Contractor CEU hours.

MEMBER NEWS

WINTER GARDEN, FL - **Rex Huffman, DBIA of Gibbs and Register, Inc.** has been promoted to President. He previously held the position of Senior Vice President. Former President **John Gibbs** will be Chairman and CEO.

JACKSONVILLE, FL - ACE Mentor Program of America, Inc. announced the formation of a local affiliate, ACE Mentor Program of Northeast Florida, Inc. ACE is an after-school program that gives students a hands-on introduction to architecture, engineering and construction.

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We're interested in your news.

We are especially interested in DBIA member networking stories, member accomplishments, and company news. We also welcome contributions of stories of interest to the design-build industry.

If you have information that you would like to share, please send it to Karen Wallace at kwallace@fldbia.org.

WELCOME NEW MEMBERS

The DBIA-FC is pleased to welcome the following individuals and companies that have joined DBIA since April.

Individual Members

George Corcoran
Corcoran Construction, Inc.
Longwood, FL

Hig Rodriguez Dillinger
CIRSCO
Tampa, FL

Amr Gawad, PE
True Engineering & Consulting Corp.
Ocoee, FL

Mark Hrycyk
Lee County Board of County Commissioners
Fort Myers, FL

Mark Jezak
GC Construction Group
Eustis, FL

James Kisling
City of Jacksonville
Dept. of Public Works
Jacksonville, FL

Michael J. Liggins, PE
Bonita Springs Utilities
Bonita Springs, FL

Dawn Martin
McGraw Hill Construction
Sunrise, FL

Dane G. Theodore, AIA
School Board of Brevard County
Viera, FL

Susana Valdes
Coastal Systems International, Inc.
Miami, FL

Fernando Villanueva
PMA Consultants LLC
Orlando, FL

Dennis Wallace
Sarasota County Government
Sarasota, FL

Industry Partners

Clancy & Theys Construction Co.
Pete Pace
Orlando, FL

Doosan Hydro Technology
Taryn Harvey
Ali Kalantar
Tampa, FL

Load Test, Inc.
Jack S. Hayes
Gainesville, FL

Additional Industry Partner Contacts

HDR Design-Build, Inc.
James Hinda, CSI
Lutz, FL

Hensel Phelps Construction Co.
Matthew Recinos
Orlando, FL

Hillsborough County Aviation Authority
Rey Bulnes
Edward Haines
Jim Jones
Rud Mueller
John Nicholson
Louis Russo
Jeff Siddle
Tampa, FL

What is the Appropriate Allocation of Risk in Design-Build?

Q *What is the appropriate allocation of risk between an owner and a contractor in a design-build agreement?*

A The allocation of risk in a design-build contract is always a “hot topic” for owners and contractors. Owners tend to believe that contractors should be willing to assume more risk than a contractor would ordinarily bear in a traditional design/bid/build project. On the other hand, contractors routinely express concern that they are expected to assume an unfair share of the risk in design-build arrangements. A successful design-build project requires that a balance be achieved between these two competing interests.

The negotiation of design-build contracts should be guided by the basic principle that risk should be borne by the party most capable of managing it. Owners must be persuaded to relinquish their desire to place undue risk on the contractor and to instead seek to impose on contractors only those risks that are within the contractor’s control. Any other method will inevitably lead to tension between the parties and protracted contract negotiations.

For example, when developing design-build projects, contractors should be fully responsible for ensuring that the project performs in accordance with the design

specifications and/or performance standards. Contractors should only be relieved of this responsibility if the project’s failure to perform is caused by an uncontrollable circumstance or is the fault of the owner. The project’s performance is after all the primary objective of a design-build contract, and it is a risk that the contractor can manage.

The risk of subsurface site conditions is a prime example of the type of risk that should be retained by the owner. Subsurface site condition risks range from the overall constructability of the site to the potential existence of hazardous materials or subsurface structures. Owners generally have greater knowledge about the site or at least have greater access to information about the site than contractors. Requiring a contractor to fully bear this risk will only cause it to incorporate the risk into its bottom line by adding a premium to its price. The price increase will then be passed on to the owner regardless of whether any cost is actually realized by the contractor on account of taking such risk.

Even risks that seem to lie solely with the owner, however, can be equitably allocated between the

parties. Using the example of subsurface conditions, the owner’s assumption of risk could be limited by language that entitled the contractor to the owner’s performance, schedule and cost relief to the extent such relief is warranted due to the discovery of conditions that materially differ from the subsurface conditions disclosed in documents made available in connection with the procurement process. This language enables the parties to share the subsurface risk based on each party’s ability to manage such risk. The owner knows, based on the background documents, the site’s subsurface conditions, and can evaluate the likelihood of undisclosed subsurface conditions being discovered. The contractor is entitled to relief, but not if such relief is due to a subsurface condition it should have known about through its review of the background documents.



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If you have a question that you’d like to have answered, please send it to info@fldbia.org with a subject line of Newsletter Question.

MEMBERS NEWS

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The 2006-2007 Duval County school year will have two teams of mentors working with students at A Philip Randolph High School led by **Haskell** and Lee High School led by **HDR, Inc.**

DAYTONA BEACH, FL - **Joanne Flick**, formerly Joanne Carol, has



Joanne Flick

joined the City of Daytona Beach in the position of Purchasing Agent. Previously, she held the position of Senior Contracts Administrator with Orange County.

JACKSONVILLE, FL - **Jack Gabriel, P.E.** recently joined Ashco Incorporated as Vice President of Engineering and Construction to run the development arm of the company. Ashco Inc. is embarking on an ambitious expansion plan to develop high end shopping centers in Duval and St. Johns Counties. Prior to joining Ashco, Mr. Gabriel worked for nearly 14 years with the Jacksonville Transportation Authority.

ST. PETERSBURG, FL - **Tom**



Tom Donnelly

Donnelly has recently joined Stahl & Associates Insurance, St. Petersburg, to lead their Construction Risk Management Services team.

FORT MYERS, FL - Lee County Utilities has recently awarded a design-build contract to **MWH** for the expansion of the Gateway Wastewater Treatment Plant in Fort Myers, Fla. Under the \$40 million contract, **MWH** will provide design and construction management-at-risk services for a three-phase expansion to increase plant capacity from 1 million gallons/day (mgd) to 6 mgd.

TAMPA, FL - **Finfrock Design-Manufacture-Construct** has recently signed the contract for their 14th garage for Highwoods Properties. This eight level garage carries a design-build contract worth \$9.5 million and is designed for expansion in the future. Construction on the garage will begin in October 2006 with completion scheduled for May 2007.

PROPERTY INSURANCE

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renews. Whether you are a small business owner or a national firm, it takes time for underwriters to properly analyze the data and put together a good program, and unfortunately you are not the only one in this situation. So by positioning yourself early you will put your company in a favorable position. If you wait until you get your notice of cancellation 45 days before it is due to renew, you will find yourself in a bad position. If you have a large property schedule, you might even consider moving the renewal date of your program to earlier in the year—before the hurricane season.

A lot of the contractors do not have heavy property exposures, but instead most of their risk of loss is derived from casualty/liability exposures. Because of the strain on the property marketplace, many insurers who specialize in contractors are becoming very competitive on the liability side. As with any line of coverage if you have a favorable loss history, you will be more attractive to insurers and will have more bargaining leverage.

No matter what the state of the insurance market place, if you have had bad losses, you will want to put an added focus on safety, loss control and claims handling. This will not only increase your bargaining position but it will also protect your number one asset, your employees.

Sources:

Insurance Information Institute, ISO

ANNUAL CONFERENCE FOCUSES ON PARTNERING

Highlights

2006 Annual Conference
November 9-10, 2006
at the
Hutchinson Island Marriott
Stuart, FL

Nov. 9, 2006
1st Annual Golf Tournament

"It's Five O'Clock Somewhere" Welcome Reception

Nov. 10, 2006
Exhibitor's Showcase

Educational Sessions:
What Do Owner's Really Want?

Building Partnerships: Understanding Other Viewpoints

Status of Design-Build in Florida's Transportation Sector

Improving Design-Build Delivery – Breakout Sessions

Crossing the Bridge – The Joining of Ideas

Accommodations:
A special rate of \$109 per night single/double plus taxes has been secured for the conference. Rooms are available on a first-served basis until Oct. 9.

This program has been approved for AIA Learning Units and DBIA Continuing Education Credits.

Building upon the success of our conference last year, we are proud to present *Crossing the Bridge Together – Owners & Practitioners in Design-Build* as the theme for our **2006 Annual Conference and Business Meeting**. This program brings together design-build firms, marketers, public and private owners, contractors, suppliers, architects and engineers for a day of education and networking.

The focus of the conference will be on gaining a greater understanding of the roles of all parties involved in a design-build project. Through interactive sessions, participants will look at what makes for a successful design-build project and how to overcome the pitfalls. Owners, contractors, designers and facility managers will all learn more about *Crossing the Bridge Together*.

If registered by October 25th, the cost to attend is \$195 for DBIA members and \$250 for non-members with a special rate of \$75 for public and private owners, academia and students. Log on at www.fldb.org or call (407) 563-1410 for details.

MEMBERSHIP DRIVE

Bring in the most new members to the Florida Chapter from now until November 8th and win a **FREE** DBIA Conference of your choice, including the national or specialty conferences.

As an added incentive, new members will receive a discounted rate, if joining by Nov. 8. New industry partners receive a 10% discount and new individual members will save \$49.

For more information or to receive the discount codes contact our Membership Director: Jackie VanderPol at jacklyn.vanderpol@thefulcrumintl.com.

Thank you to our conference sponsors.

PLATINUM SPONSORS:



**Hensel Phelps
Construction Co.**



Additional sponsorship opportunities are available.

OMB LANDMARK REVISION

The Office of Management and Budget (OMB) has recently released a landmark revision of its Capital Programming Guide—a document meant to provide policy direction for agencies during the budgeting process. DBIA applauds OMB's leadership in taking this greatly needed positive step. DBIA members, particularly public agencies, have frequently asked DBIA for guidance on how to implement performance-based requirements, integrated project teams, and stipends in an effort to improve project delivery.

Performance-based requirements describe the nature of the project in terms of desired performance outcomes and an owner's goals,

challenges, and problems, rather than through restrictive design specifications. Moreover, performance based requirements can capture owner requirements more effectively while dramatically reducing statement of work paperwork by more than 90%.

DBIA provided extensive comments to OMB during the revision process and is delighted that OMB is encouraging expanded use of performance-based requirements and integrated financial rewards for meeting performance evaluations. This revised policy document will be very important in helping federal agencies integrate these concepts into their procurement process. The document can be found online at [http://](http://www.whitehouse.gov/omb/circulars/a11/current_year/part7.pdf)



www.whitehouse.gov/omb/circulars/a11/current_year/part7.pdf.

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