

BRICKER GRAYDON'S 20 RULES FOR PUBLIC OWNERS' CONTRACTING SUCCESS

1 Analyze and understand the risks and requirements of each of your projects, and how your team will eliminate or minimize those risks and meet those requirements.

2 Beginning with the hiring process, communicate your expectations to your team and follow through to see that each team member meets those expectations.

3 Conduct a thorough evaluation of your design professional and, if applicable, construction manager candidates so you hire a team of competent, cooperative, and responsive professionals for each of your projects. During the hiring process focus attention on the risks and requirements for your project and how the candidates would eliminate or minimize those risks and meet those requirements – get specific answers.

4 Require that your drawings be well coordinated using a competent person not previously involved with the design to review them for conflicts. Discuss coordination with your design professional candidates, understand the process, and see that the process becomes part of the owner design professional agreement.

5 Understand and address any green building issues (LEED, etc.). Begin early during the hiring process by discussing any green building issues with your design professional and, if applicable, construction manager candidates. Incorporate each team member's responsibilities for any green building issues into its contract.

6 Provide sufficient time to complete the design process, including the coordination of the plans and specifications, and, if applicable, a constructability review, and establish a reasonable and achievable construction schedule.

7 Hire competent project administration, including observations and inspections, so that through your design professional and/or construction manager you have knowledgeable eyes inspecting the Work each day to guard you against defective and non-conforming Work.

8 Make sure that your representatives, design professional, and/or construction manager, are knowledgeable about the roofing and through wall flashing Work and that your representatives carefully review the plans, specifications and shop drawings and then inspect the Work as it is being installed.

9 Provide for the commissioning of new HVAC systems or major modifications to existing systems.

10 Carefully think through how the risks for unforeseen site conditions will be evaluated and allocated.

11 Include contractor hiring criteria in your bidding documents that will permit you to evaluate and hire qualified contractors. Before opening the bids, have a clear understanding with your design professional, if applicable, construction manager, and yourself about how you are going to evaluate bidders using your hiring criteria so that you have qualified contractors building your project.

12 Exercise your discretion and hire qualified contractors that can be expected to work as part of a cooperative team to complete your Project on time, on budget, and free from defects.

13 Use contracts that protect your interests and that are consistent with your expectations. Have your contracts, including owner-architect agreement, owner-construction manager agreement, and owner-contractor agreement, drafted to protect your budget and provide for a project that will be constructed on time, free from defects, and in accordance with the Contract Documents.

14 Train your Team in how to use your Contract Documents. Do not stop simply with good Contract Documents that will protect your interests. Your Team needs to know how to use them. Take the additional step and provide this training.

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15 Include indemnification provisions in your contracts with your contractors, design professional, and, if applicable, construction manager, that will protect you from claims caused by other persons.

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16 Be decisive and responsive - understand what you are required to do and do it in a timely and competent manner. Find out from your design professional and, if applicable, construction manager what you are required to do and when you are required to do it.

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17 Ensure that your Contract Documents require a clear and detailed notice of any problem that would affect your budget, completion date, or the quality of the Work.

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18 Deal with all problems on your projects immediately, including contemporaneous documentation; do not let small problems grow into major disputes. If you sense you have a significant problem, contact your legal counsel immediately.

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19 Keep your contractors' sureties informed about any significant problems. If you have a significant problem with a contractor on your project, you want the contractor's surety informed and involved as early as possible.

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20 Have the insurance provisions in your Contract Documents reviewed by your insurance professional, follow his or her recommendations for modifying those provisions and have your insurance professional verify that you have the required coverage.

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“By failing to prepare, you are preparing to fail.”

Ben Franklin