Association of Commercial Real Estate Executives – Inland Empire

# Developing Public/Private School Sites

FEBRUARY 17, 2010

# Agenda

1. Today's Panel
2. Presentation Goals
3. Educational Goals Affecting Site Selection
4. Site Development Criteria
5. Site Acquisition, Approval, and Agency Timelines
6. Major Public/Private Development Partners
7. Types of School Development Delivery Methods
8. Successful Case Studies
9. Q&A

# Today's Panel

Moderator

**Dan Benner, AIA,** Principal, HMC Architects

Panelists

**Charlene Whitlinger,** Retired Deputy Superintendent, Desert Sands USD

**Jeanne Cockrell**, Entitlements Coordinator, HMC Architects/School Advisors

**Kris Meyer,** President/Owner of Ledesma & Meyer Construction Co., Inc.

**Jason Hertzberg**, Associate Engineer, Leighton & Associates

# Presentation Goals

1. Provide an overview of the various public/private school development partnering opportunities and funding sources.
2. Share information relative to public school district educational goals affecting school developments
3. Furnish site selection and development criteria governing size, location, and context.
4. Provide awareness to the development industry of State-mandated agency processes and timelines
5. Present traditional and alternative school development and construction delivery methods.

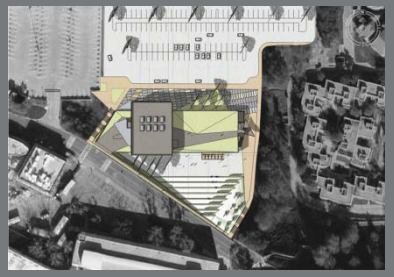
# Education Goals Affecting School Sites

1. Maintaining consistent and manageable enrollment capacities at all District campuses
2. Building campuses within specific "walking distances" from student residences creating neighborhood schools of pride and place
3. District-wide Master Plan in sync with local areas' General Plan and envisioned growth (be proactive with city planning agencies)
4. Working with local communities to establish particular curriculum/program focus, specialized programs to attract students
5. Prior development of the State-required educational specifications
6. Demographic studies in advance determined envisioned growth

# School Facility Site Planning

School facilities and sites are powerful indicators of School District and community values and aspirations. They not only support the academic needs of the students they serve, but can also address the social educational, recreational, and personal needs of the broader community.



# Facilities Master Plan

- **Basis to identify and accommodate facility needs**
  - Road Map of Long and Short Term Facility needs
  - Determine Educational Program Vision
  - Demographic Trends and Analysis
  - Site Needs and Capacities
  - Financial Analysis
  - Evaluation Plan
  - Community Involvement
  - Board of Education Approval

# Facilities Master Plan

In the end, a facility master plan must resonate with **all members of the community to achieve satisfaction.** For the parents, it must demonstrate educational **excellence** in a practical, efficient, and safe manner. For senior citizens, it must show that their real estate investment will be protected and even be **enhanced** through the provision of a quality educational system functioning in well-maintained and pleasant looking facilities. Businesses must feel that the enhanced educational solutions will produce a more **stable workforce** and career path for students who may go directly from school to work or onto local community colleges.

# Educational Specifications

- **The essential foundation for any educational facility planning process is the creation of an educational plan.**
  - Define the programmatic, functional, spatial and environmental requirements of the educational facility and site.
  - Implementation of Board Policies
    - Strategic Plan
    - Walking Distances
    - Educational Goals

# The Educational Plan

- curriculum objectives
- facility philosophy and goals
- demographics of the population served
- number of students to be served
- number and kind of spaces required
- analysis of the relationship of spaces
- analysis of school-administration relationship
- teachers' professional environment
- support programs
- community use and priorities

# Identify Goals

- Mission
- Curriculum
- Teaching styles
- Program adjacency
- Staff support
- Budget
- Schedule

# Identify Goals

- Curriculum and Instruction
  - Future trends
  - Curriculum goals
  - Educational programs
  - Teaching concepts
  - Technology goals
- Community Interaction
  - Business partnerships
  - Community internships
  - Support foundations
  - Community use of facilities
    - Adult classes
    - Recreation
    - Library and media center
    - Athletic Facilities Use
    - After School Programs

# Yikes!!!

We Need a School Now.
What Do We Look For?

# The Importance of School Site Selection

- Selecting the most appropriate site for a school is an important consideration for a school district and the school community.
- School Sites are community anchors
- Location, size and shape can affect the educational program
- Selection criteria a must!

# Developing Local Site Selection Criteria

- High Quality Educational Programs
- Location, Location, Location
- Infrastructure Needs
- Cost
- Size
- Demographic  and Enrollment Trends
- Environmental Quality (Dirt from Heaven)
- Health and Safety
- Community Buy-In
- City General Plan Amendment
- Designated Sites by Developer

# Criteria to Consider

- Safety
- Location
- Environment
- Soil/Topography
- Accessibility
- Public Services
- Utilities
- Availability
- Public Acceptance (not in my backyard) (NIMBYs)
- Future Tract Maps and Surrounding Areas

# Site

- Site size
- Site planning goals
- Site restrictions
- Governing and community agencies
- Easements
- Utilities
- Parking
- Storm water
- Traffic flow
- Delivery

# Site Acquisition

Upon State (CDE and DTSC) approval, the School District may use these options for site acquisition

- Purchase Agreement
- Property Exchange
- Negotiated Mitigation Agreements With Developers
- Eminent Domain
- Donation

# Working with Local/Community Agencies

- Shared development costs
  - Off site-streets, traffic devices, topography issues, etc.
- Shared Infrastructure costs
  - Utilize State program allowances to benefit project costs
  - Utility and site
- Community use of facility
  - After school programs, vocational use
  - Parks, joint-use, athletics, community meetings
- Ordinances/Board Policies
- Opportunities for Partnerships!!!!

Every community wants its school to be the ideal school and site, that meets the needs of students, parents, teachers, administrators and the community. In addition, the State wants the school site to meet local demographic, enrollment and budgetary constraints. When a well-planned school is added to the neighborhood, everyone is proud and it drives up the population.

# School Site Selection and Approvals

Excerpted from CDE School Site Selection and Approval Guide

1. **Selecting the proper site must consider:**
   a) School sites selected shall provide both a safe and supportive environment for the instructional program and learning process.
   b) School sites selected shall be capable of gaining State Agency approvals.
2. **Determining who will select the site**
   a) District staff
   b) District-assembled multi-stakeholder selection team (CDE recommended)
   c) CDE consultant
   d) Developer-initiated site proposal
   e) Education code 17521 and CCR Title 5 outline powers and duties of the CDE with respect to school site selection requirements

# School Site Selection and Approvals

Excerpted from CDE School Site Selection and Approval Guide

3. **Developing Site Selection Criteria**
   a) Site selection affected by many factors, including health, safety, location, size, and cost
   b) Evaluate both the current and possible future characteristics of a site and the surrounding context
   c) Establish priorities of selection criteria and be prepared to make compromises
   d) Consider incorporating a public comment period into the process to receive input and build support from the community on recommended/alternative sites

# School Site Selection and Approvals

Excerpted from CDE School Site Selection and Approval Guide

4. **Screening and Ranking Criteria**
   *(developed by CDE and listed in order of importance)*
   a) Safety
   b) Location
   c) Environment
   d) Soils
   e) Topography
   f) Size and Shape
   g) Accessibility
   h) Public Services
   i) Utilities
   j) Cost
   k) Availability
   l) Public Acceptance

# Site Approval Agencies

- CDE – Site Selection and Environmental Hazard Reviews
- CEQA Processing Aspects
- DTSC and the PEA Process
  - Phase I ESA Standards and Requirements
  - Preliminary Endangerment Assessments
  - Supplemental Site Investigations
  - Remedial Action Workplans (RAW)
  - No Further Action Determinations
- Local city/county jurisdictions governing off-site development scopes of project
- Local serving utility purveyors

# Site Selection Evaluation Procedures

- 3 Worksheets exist for Districts to evaluate and rank identified sites on the listed criteria
- For state-funded site purchases, at least 3 acceptable sites need to be identified and evaluated
- Districts not applying for State funds are not required by Education Code Section 17251 to review a specific number of sites
- California Environmental Quality Act does, however, require that alternative sites be reviewed as part of the environmental reporting process
- Impacted or undersized sites (primarily in urban settings) may require additional evaluation to ensure all aspects of educational programs can be met

# Evaluating Safety Factors

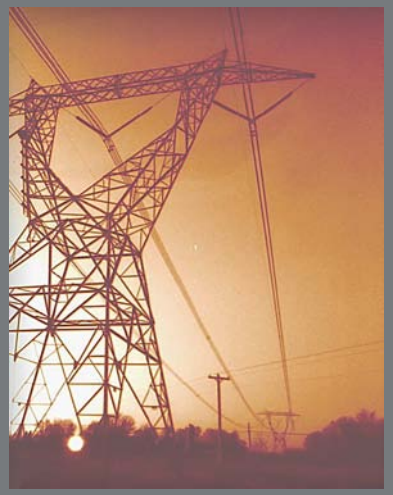
Safety is the First Consideration in the Selection of School Sites

1. **Proximity to Airports**
   If site is less than two nautical miles from an existing or planned runway, additional notices and evaluation is required with the Department of Transportation Aeronautics Program

2. **Proximity to High Voltage Power Transmission Lines**
   Separations from utility easements to school site property lines, based on line voltage

   50-33KV 100 ft
   220-230KV 150 ft
   500-550KV 350 ft

   Electromotive Force (EMF) Surveys and mitigative measures



# Evaluating Safety Factors

Safety is the First Consideration in the Selection of School Sites

3. **Presence of Toxic/Hazardous Substances**

   Proximity to landfills, oil fields, fuel storage areas, power generating facilities, and agricultural sites with prior pesticide usage require special study with DTSC

   School site shall not be built if:
   Current or former HW disposal site
   Current or former solid waste site DTSC hazardous substance release site

4. **Hazardous Air Emissions**

   Identify facilities within a quarter mile of the proposed site that may emit hazardous emissions

   Review facility emission permit files and assess potential risk to school site occupants

# Evaluating Safety Factors

Safety is the First Consideration in the Selection of School Sites

5. **Proximity to Railroads**
   If site is within 1,500 ft of a track easement, a safety study to assess frequency, speed, cargo, grade, noise, and other rail conditions is to be conducted.

   Within 1500 ft, Railroad Safety Study and Mitigation Measures

6. **Proximity to Pressurized Gas, Gasoline, or Sewer Pipelines**
   Education Code Section 17213 prohibits acquisition of a school site by a District if the site contains pipelines carrying hazardous substances or wastes.

# Evaluating Safety Factors

Safety is the First Consideration in the Selection of School Sites

7. **Proximity to High Pressure Water Pipelines, Reservoirs, or Tanks**
   If site is within 1500 ft of a easement for above or below-grade pipelines or large volume water structures, safeguards to preclude flooding need to be considered in the design.

8. **Proximity to Propane Tanks**
   Proper evaluation of the number, location, and capacities of tanks within nearby properties to assess a school's level of safety.

Flooding Risk
Rupture Debris
Emergency Response Plans

# Evaluating Safety Factors

Safety is the First Consideration in the Selection of School Sites

9. **Noise**
   DOT considers sound at 50 decibels in the vicinity of schools to be excessive enough to take corrective action.

10. **Proximity to Major Roadways**
    Sites shall not be adjacent to roads or freeways where safety or sound-related issues adversely affect the education program. Setbacks from 1500-2000 ft are advised.

Freeways (within 500 feet)

Traffic Studies

# Evaluating Safety Factors

Safety is the First Consideration in the Selection of School Sites

11. **Results of Geological Studies and Soils Analysis**
    CDE policy is for all proposed school sites to have geotech and soils studies completed to examine earthquakes, liquefaction, landslide, flooding, and dam inundation potentials

12. **Traffic and School Bus Safety Conditions**
    Separation of bus traffic from all other traffic is paramount, as is sufficient roadway widths, left turn lanes, safe ingress and egress, and signals.

# Evaluating Safety Factors

13. **Safe Routes to Schools**
Provide safe walking routes to school site from surrounding public right-of-ways.

13. **Safety Studies for Joint-Use Sites**
Special care taken to ensure that both students and community members will be able to use the site jointly without compromising the safety and security of the school.

# DTSC and the PEA Process

- If REC's are identified, the District enters an Environmental Oversight Agreement with the Department of Toxic Substances Control
- DTSC Process can take from 60 days for simple Phase I ESA's with no REC's to more than a year for sites requiring investigation and cleanup

# The Ultimate Goal

NO FUTHER ACTION (NFA) DETERMINATION LETTER FROM THE DTSC ALLOWING PURCHASE OR CONSTRUCTION OF THE SITE

# California Environmental Quality Act

- Other Environmental Studies
- Evaluates and mitigates the environmental impact of the project, exemptions (statutory or categorical)
- Initial Studies: evaluate impacts, mitigation to reduce impacts (categorical exemptions, negative declarations, mitigated negative declarations
- Projects with potential to significantly impact the environment require an Environmental Impact Report (EIR)
- Negative Declarations can take 60 days
- Full EIR's could take up to a year or more with extensive detailed studies, public reviews, and agency certifications

# Public/Private Development Partners

1. Public Pre-K-12 Districts and County Offices of Education
2. Public Community Colleges and State Universities
3. Charter Schools operating within Public School Districts
4. Non-Profit Organizations developing/operating Charter or Private Schools
5. State Education Agencies (OPSC, CDE, DSA, DTSC)
6. Private Universities and Colleges
7. Private Technical Education Programs
8. Residential/Commercial Developers and Master Planners
9. City and County Economic Development Agencies
10. Early Education/Child Development Center Providers
11. Construction Managers, Design Professionals, and Building Industry Partners

# Public/Private Partners and Financing

- Now that you have planned the school, how do you pay to construct it?
  - State contribution
  - Local School District contribution
  - Developer fees
  - Local Bonds
  - Redevelopment contribution

# State Contribution

- Office of Public School Construction (OPSC) and the State Allocation Board (SAB)process the funding and approve funding for schools.
- A dollar amount (grant) is allowed for every student the District needs to "house". This grant amount is intended to be 50% of the construction costs
  - $8,738 for an elementary student
- 50% of the land value is contributed by the state as well as some infrastructure cost and allowances

# Sample State Contribution

A new elementary school site on 12 acres – 700 children

| | |
|---|---|
| Construction costs (hard costs) | $16,484,500 |
| Land costs | $1,200,000 |
| Plans/Testing (soft costs) | $162,400 |
| Total | $17,846,900 |
| | |
| State contribution | |
| Grants for 700 students | $6,548,468 |
| Land reimbursement | $ 600,000 |
| Offsite/General site reimbursement | $1,470,500 |
| Total | $8,618,968 |
| | |
| **Difference (District share)** | **$ 9,227,932** |

# Local School District Contribution

- Developer fees
- General fund
- Bond campaigns
- Asset Management (school sites no longer required)
- RDA funds

# Private Financing

- Developer fees
  - Level 1: Statutory and determined by SAB
  - Level 2: SFNA with District costs
  - Level 3: No funds remain at the State
- Typically they are paid when the permit is pulled
- Funds collected from Developer are used for new construction or modernization – not in the classroom for salaries

# Private Financing

- Other options to negotiate with School Districts?
- Prepayment of fees to start the planning process (fee credit)
- Land mitigation – 50% payment from the state
- Helps locate the school in your community
- Developer can construct the school in lieu of fees (with the School District)
- Developer arranges for private financing to construct the school ( with the School District)

# Local Bonds/Redevelopment Agency

- School Districts can initiate a voter approved GO Bond (Based on assessed valuation)
  - Appears on a property tax bill
- School Districts can initiate a voter approved parcel tax
  - (Set amount per parcel)
- Redevelopment agencies are working with School Districts in inner city schools to rebuild or modernize schools in older neighborhoods
- Some Districts, Cities, and developers are now working together to design and build new or modernized schools

# Project Delivery Options for K-12 and Community College Facilities

Excerpted from DGS website: www.dgs.ca.gov

- The appropriate project delivery method is contingent on a school District/Provider's unique needs and circumstances.
- The following factors may influence which delivery method is most appropriate
  - District staff or consultant capabilities to oversee a project
  - Budget constraints/time considerations
  - Complexity/size of project
  - Level of District control over process desired
  - Type and size of Contractors appropriate for project
  - Predominant trade practice in region
  - Openness to alternative delivery methods
  - Appropriate business/community participation
  - Level of acceptable legal/financial risk

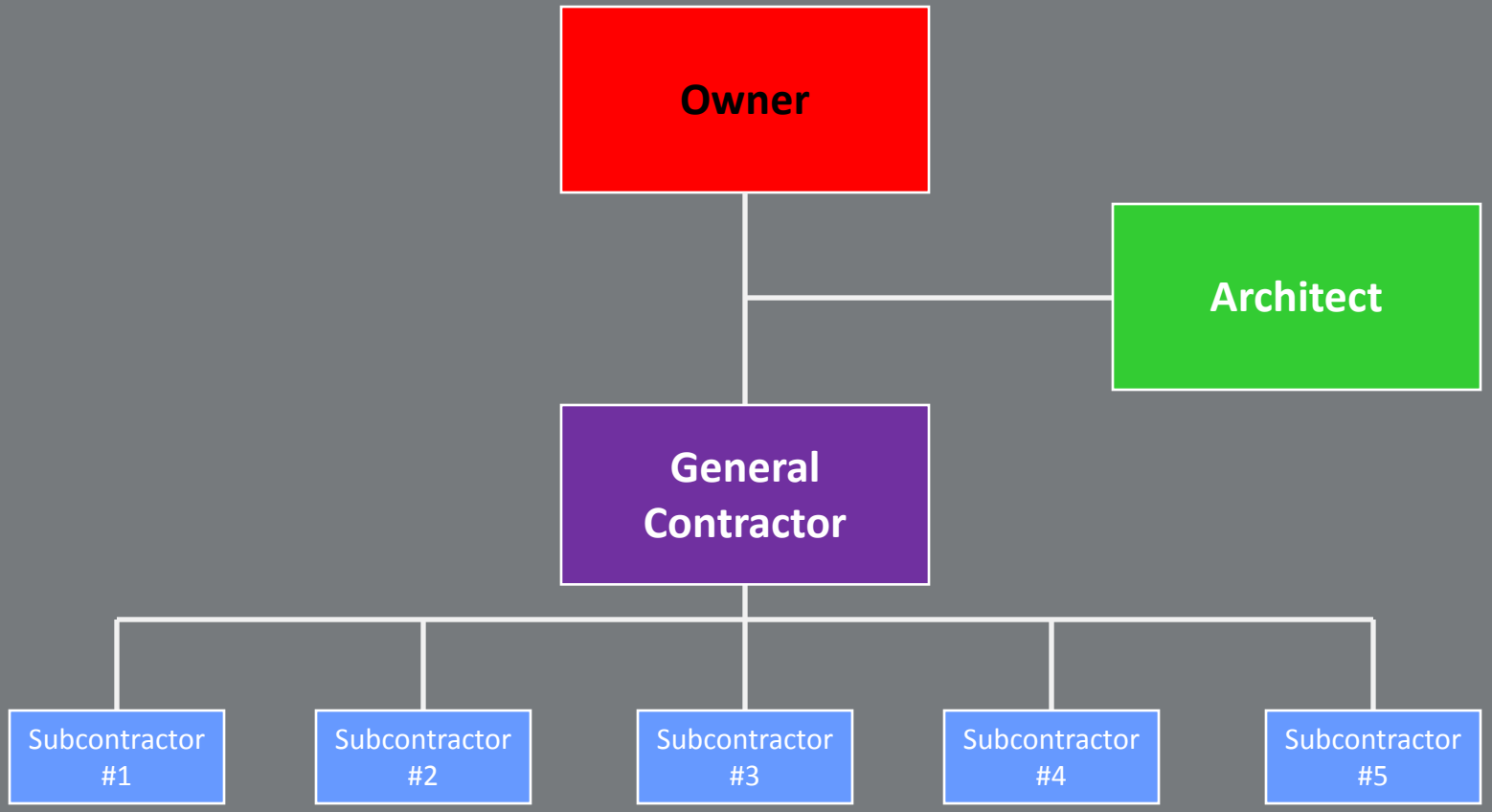
# Project Delivery Options

Excerpted from DGS website: www.dgs.ca.gov

- Traditional Design-Bid-Build
- Multiple Prime Construction Management
- Construction Management At-Risk (CMAR)
- Design-Build
- Lease-Leaseback
- Piggyback Contracts
- Developer Built

# Project Delivery Options

## Traditional Design-Bid-Build




**Enabling Legislation:**
Public Contract Code (see sections 20110 et seq.)

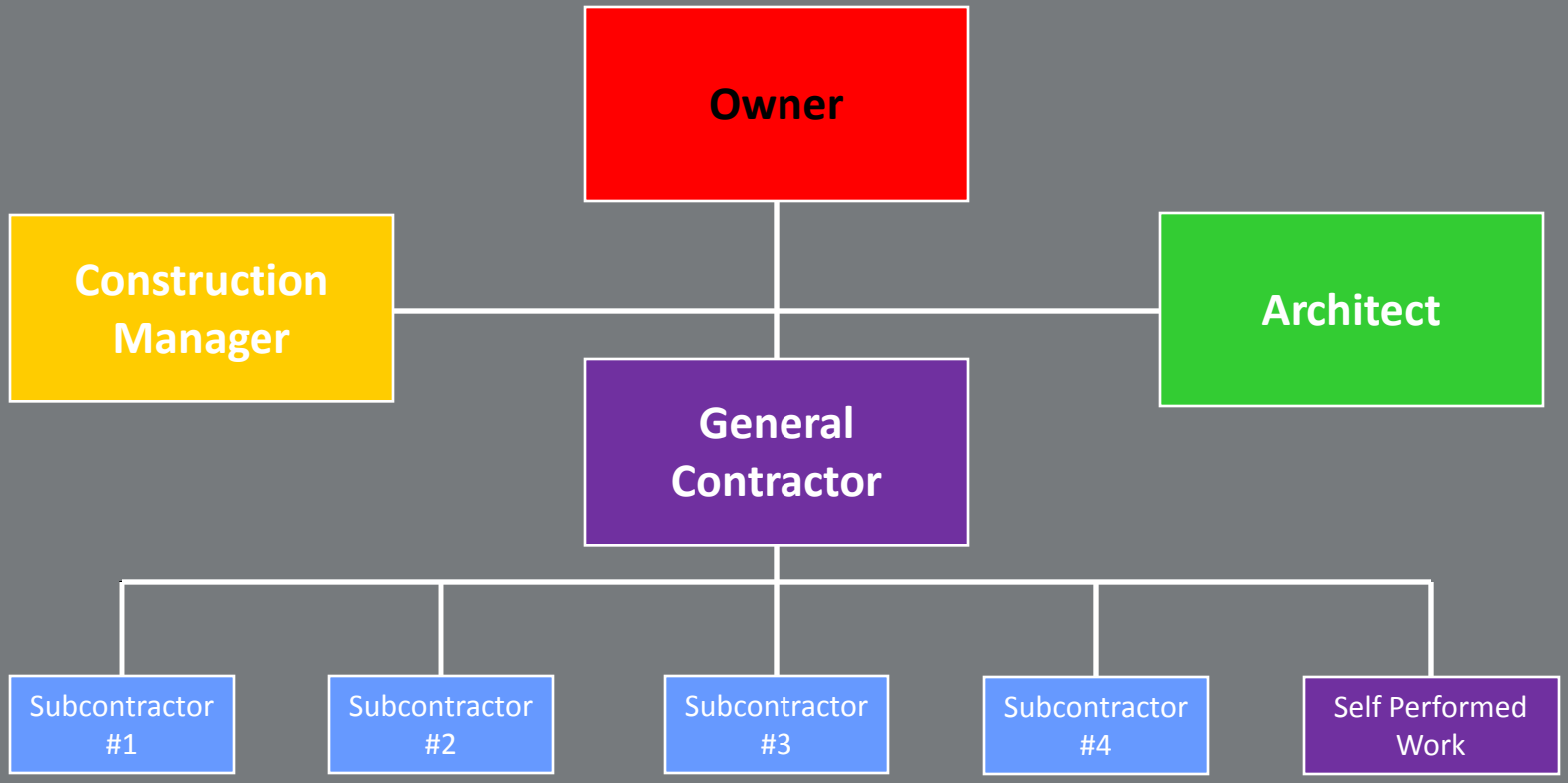
# Project Delivery Options

## Traditional Design-Bid-Build

- Advantages:
  - Most familiar and established way of delivering a project
  - Public Contract Code and legal challenges have set accepted standards
- Disadvantages:
  - No early builder involvement
  - Conflicts can arise between Architect and Builder after design is complete and Builder is selected
  - Bids over budget present the most difficulty in reducing costs
  - Loss of flexibility due to single bid format

# Project Delivery Options

## Agency Construction Management with Traditional Design-Bid-Build




**Enabling Legislation**
Government Code Sections 4525, 4526 and 53060
Public Contract Code Section 3300
Education Code 17070.50

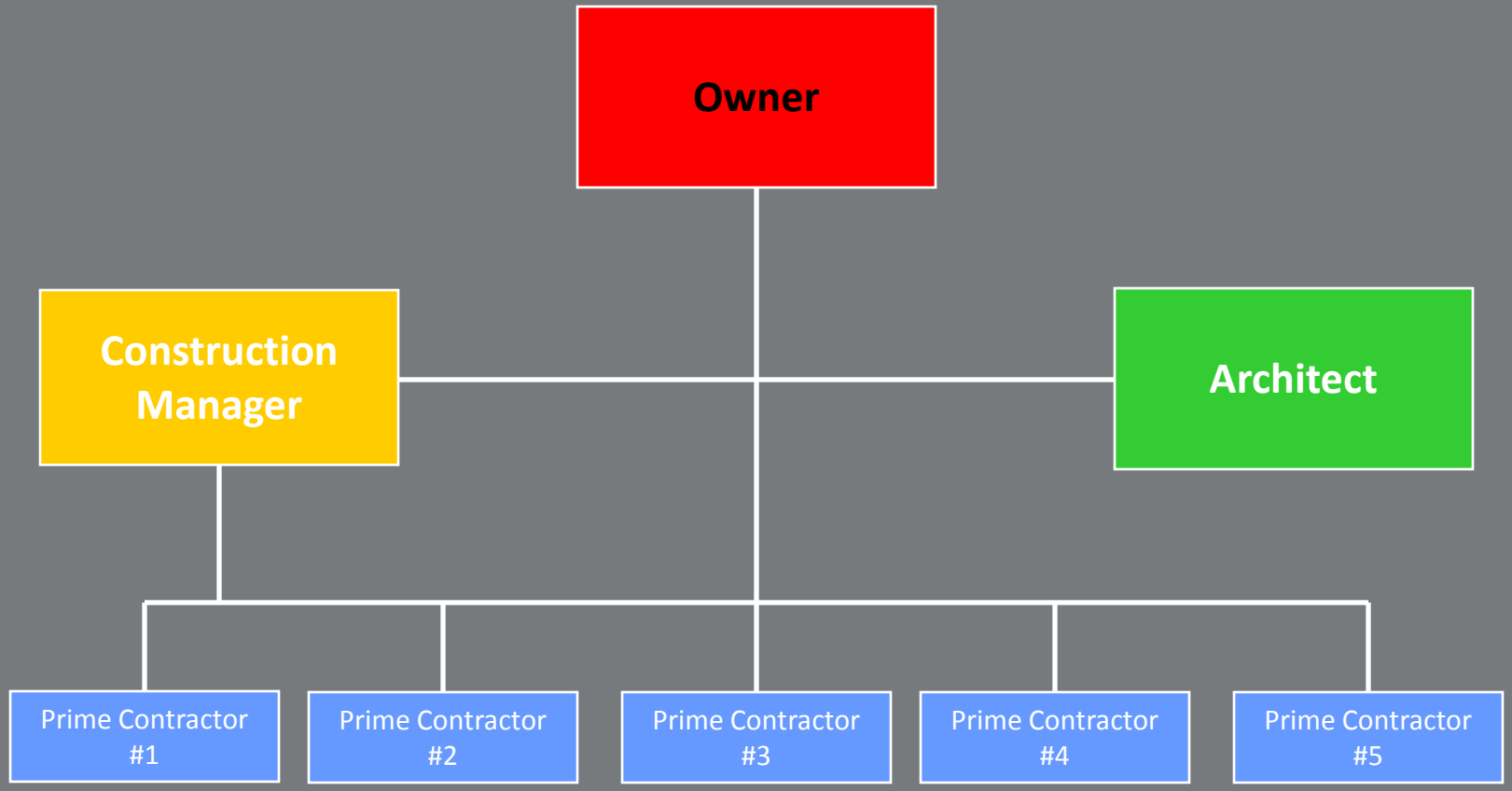
# Project Delivery Options

## Agency Construction Management with Traditional Design-Bid-Build

- Advantages:
  - Most familiar and established way of delivering a project
  - Professional Service selection process available without regard to price
  - Suitable for any delivery method
  - CM works directly for the District as a knowledgeable advocate for District's interests with no financial conflicts of interest
  - Provides construction experience during design
- Disadvantages:
  - Potential duplication of efforts (and resultant costs) between staff, other professionals, and CM as agent
  - Adds an additional layer of costs to the end product

# Project Delivery Options

## Multiple Prime Construction Management




**Enabling Legislation**
Education code 17719.3

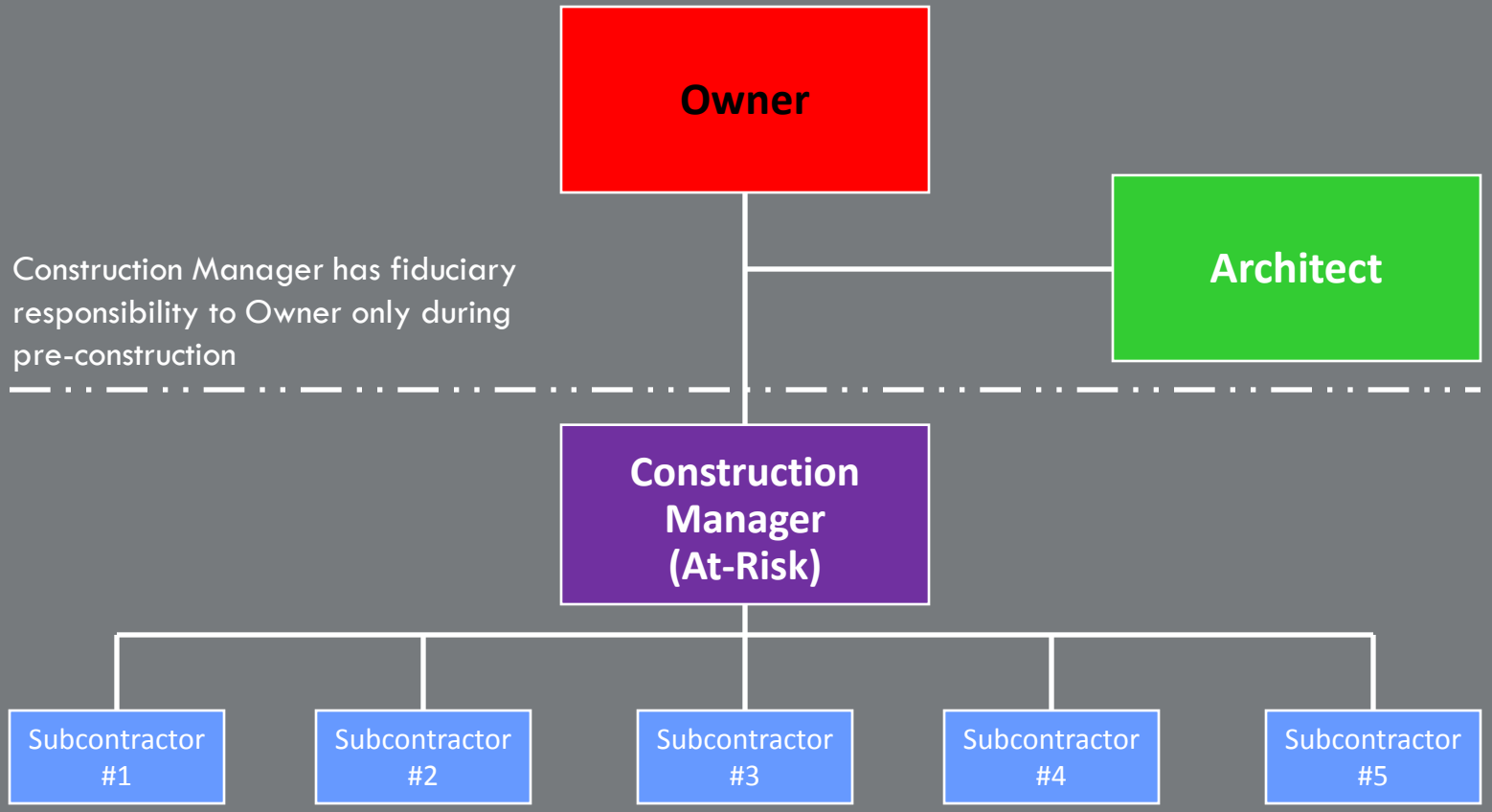
# Project Delivery Options

## Multiple Prime Construction Management

- Advantages:
  - Construction Manager may be selected under a "Professional Service" selection process without regard to price
  - Most transparent process of all delivery methods
  - More control by the District of construction phase schedule
  - Trade contracts are procured through competitive lowest responsive bidder
  - Trade contractor bidding process is familiar to the District
  - Potential to re-bid over-budget trade package without project delay
  - District has more flexibility of bidding and scheduling which allows for multiple phases
  - Construction Manager provides construction expertise to assist in the entire design, planning, permitting, and construction process
  - Avoids General Contractor mark-up
  - Multiple packages provide greater opportunity for participation by local trade contractors
- Disadvantages:
  - More contracts for the District to manage/pay

# Project Delivery Options

## Construction Management At-Risk (CMAR)




**Enabling Legislation**

Education Code 35160 (known as the "Permissive Education Code" which allows the practice because it does not disallow the practice)

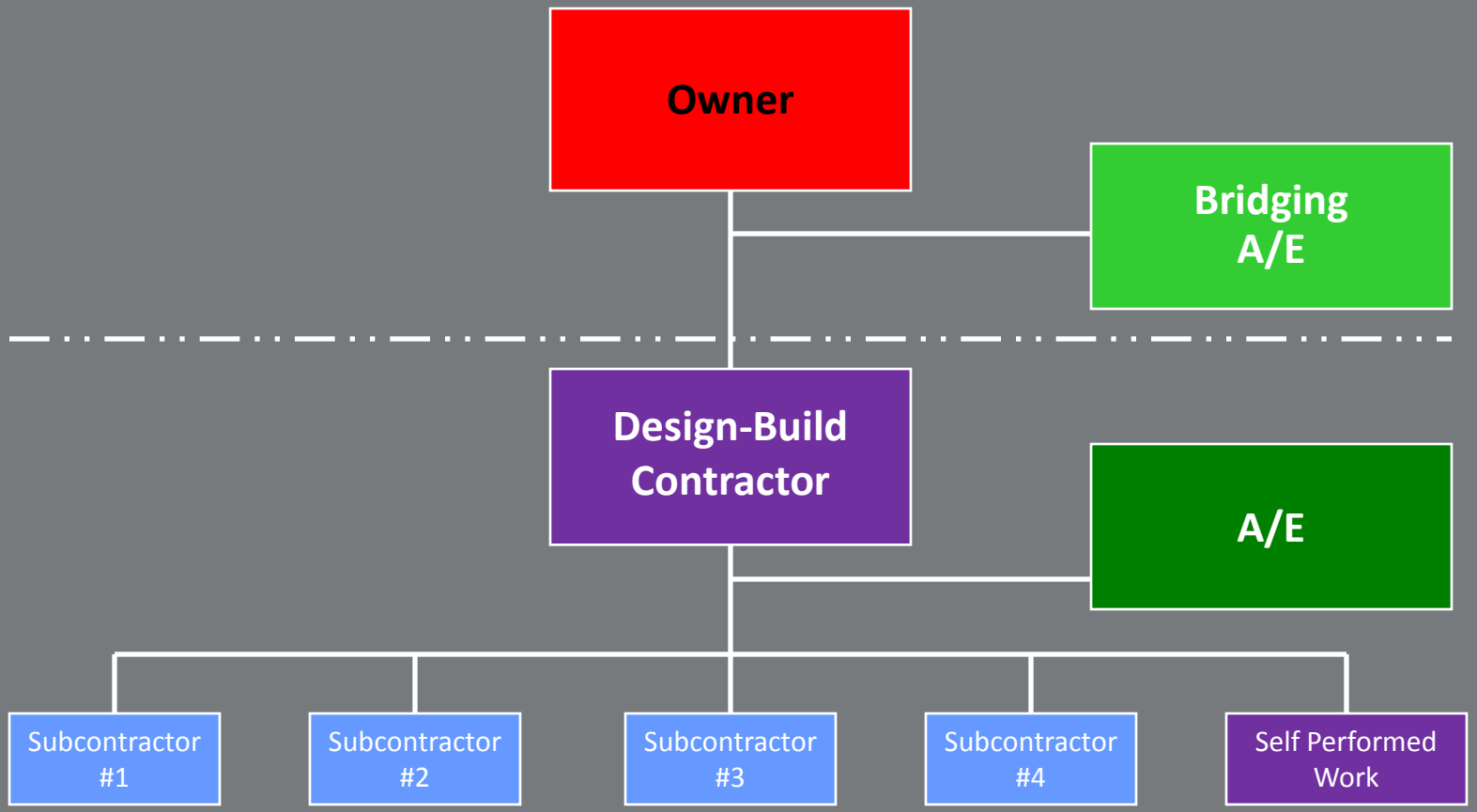
# Project Delivery Options

## Construction Management At-Risk (CMAR)

- Advantages:
  - Construction Manager may be selected based on qualifications and personnel and later converted to "at-risk" position
  - Fixed price based on complete design documents
  - Trade contracts are procured through competitive lowest responsible bidders
  - Trade contractor bidding process is familiar to the District
  - Potential to re-bid over-budget trade package without project delay
  - District has more flexibility of bidding and scheduling which allows for multiple phases
  - Multiple packages provide greater opportunity for participation by local trade contractors
- Disadvantages:
  - Increased fees from Construction Manager for assumption of risk
  - No common standards for CM at Risk methodology
  - Construction Manager's relationship with District changes during the process to one of a General Contractor
  - Potential conflict if CM also performs work with contractors on other projects
  - Potential decrease in competition for trade contractors because of added bidding and reporting requirements
  - Not all Construction Managers bond total project
  - Possibility of overlaps in scopes of work (potentially benefitting the CM)

# Project Delivery Options

## Design-Build Approach




**Enabling Legislation**
Government Code Sections 4525, 4526 and 53060
Public Contract Code Section 3300
Education Code 17070.50

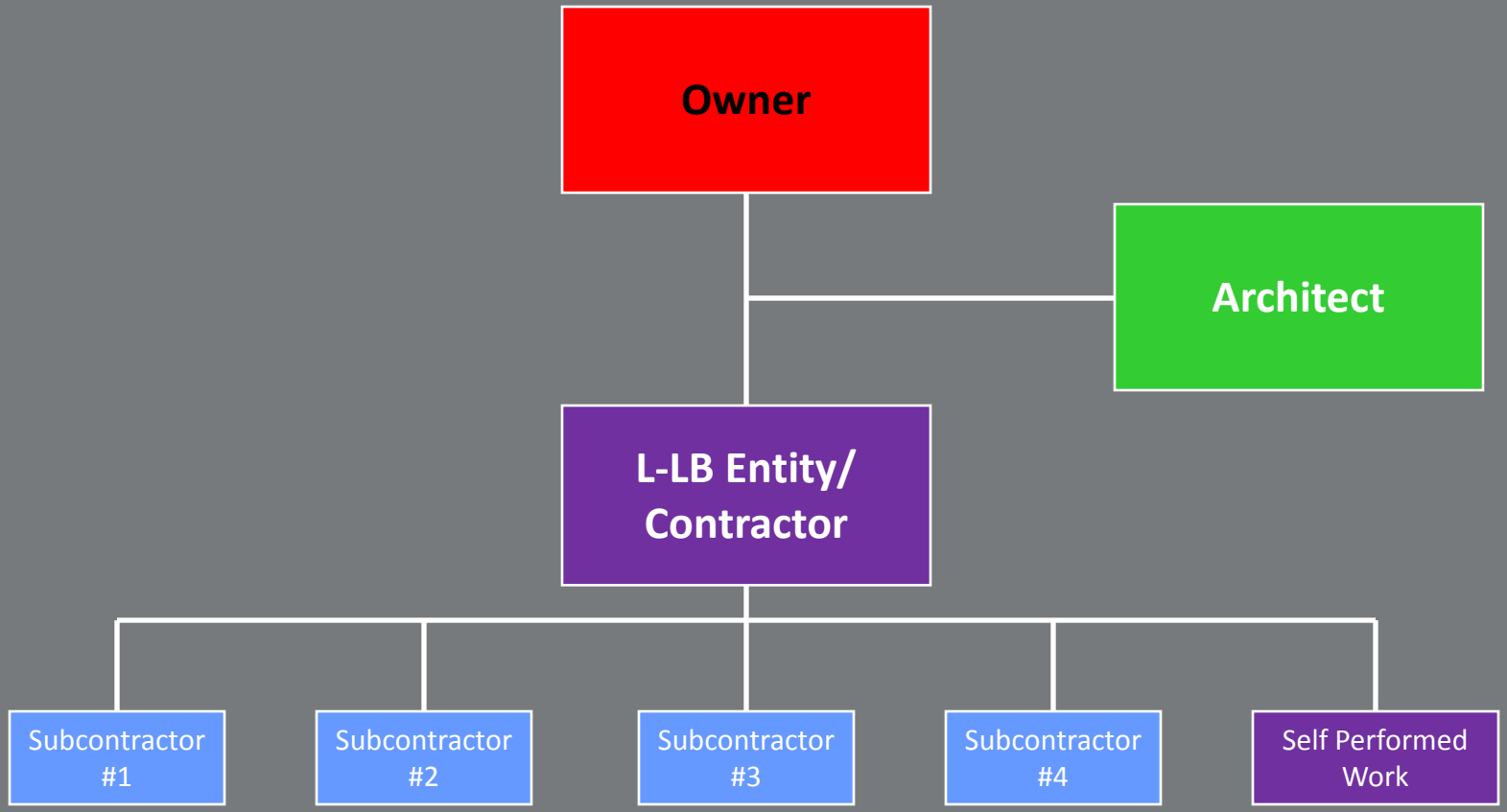
# Project Delivery Options

## Design-Build Approach

- Advantages
  - Teamwork is promoted because General Contractor and Architect are on the same team
  - Earlier knowledge of construction costs guaranteed during design
  - Design risk shifted to the Design Build Entity
  - Single point of responsibility for District with fewer changes
  - Only one RFQ and / or RFP required for design and construction
  - Only one contract for design and construction
  - More District involvement earlier in process with less involvement after design
  - Potential for faster delivery system
- Disadvantages
  - New learning curve for Districts and agencies
  - District pushed for earlier decisions
  - Different process in the front end of the project
  - New and unique statutory requirements for selecting Design-Build Entity and subcontractors
  - Insurance and bonding details are less understood
  - Statutorily limited to projects with value greater than $10 million
  - Potential for less control by District of design and design details
  - Political resistance among those unfamiliar with method

# Project Delivery Options

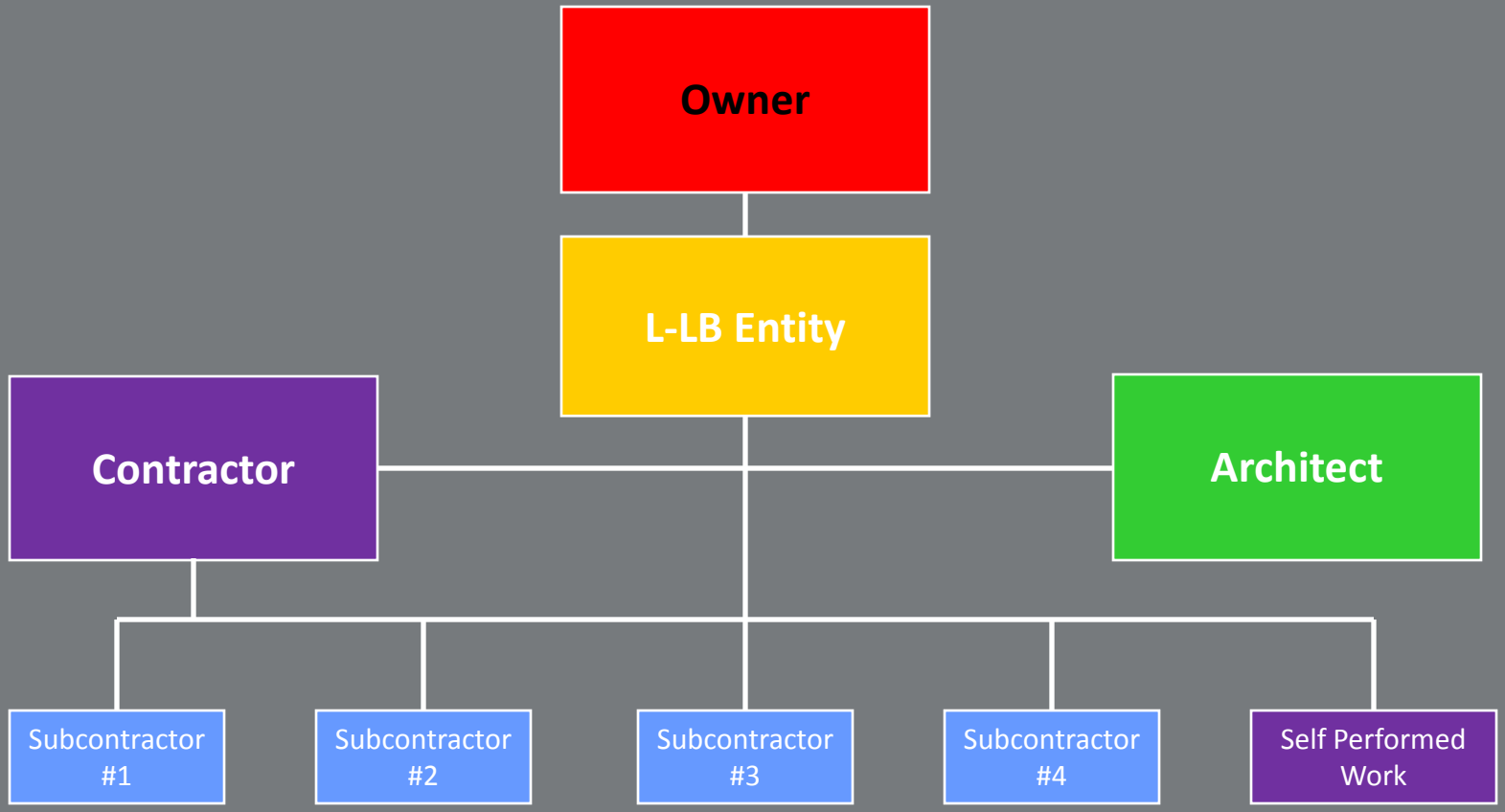
## Lease-Leaseback Delivery with Traditional Owner-Architect Relationship




**Enabling Legislation**
Education code 17406 and 81335

# Project Delivery Options

## Lease-Leaseback Delivery with Architect Under LLB Entity




**Enabling Legislation**
Education code 17406 and 81335

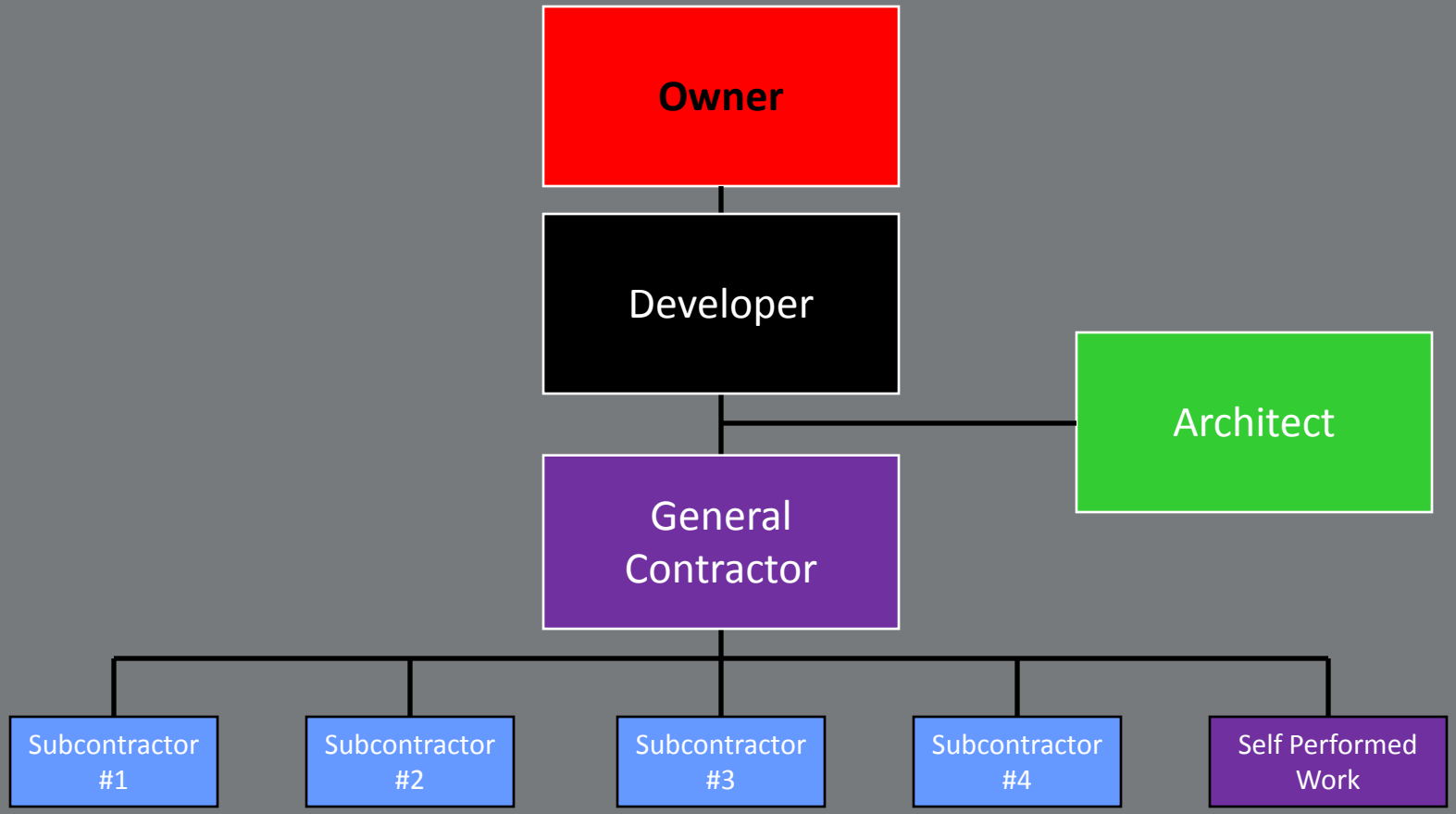
# Project Delivery Options

## Lease-Leaseback Delivery

- Advantages
  - District may use Lease-Leaseback to satisfy it need for financing the project
  - District has flexibility on who controls the Architect
  - District may participate in selecting not only the Developer-Contractor, but all of the Trade Contractors and suppliers
  - Solicitation of savings / cost can create cost savings
  - Developer – Contractors can set Guaranteed Maximum price very early in a project
- Disadvantages
  - Concerns by OPSC Staff and State Allocation Board members that the flexibility of the statutes could lead to faulty practices
  - Questions exist regarding whether leases can be signed prior to DSA stamp out of plans
  - Lease-Leaseback is relatively new and not as well understood by the design and construction community
  - Because of lack of transparency in the process and the selection / negotiation process, political issues for the District can arise

# Project Delivery Options

## Developer Built with Traditional Design-Bid-Build Delivery




**Enabling Legislation**

Education Code 35160 (known as the "Permissive Education Code" which does not disallow the practice)
Public Contract Code Section 20111 (limits expenditures considered "Public Works" subject to competitive bidding

# Project Delivery Options

## Developer Built with Traditional Design-Bid-Build Delivery

- Advantages
  - May bring construction input into design
  - May facilitate value engineering
  - Developer contribution may be greater than statutory fees
  - Use of commercial / residential components in schools
  - Design usually blends with the surrounding community
- Disadvantages
  - District has less control of the project
  - Educational Program components may be more difficult to incorporate into the project
  - District standards for materials and finishes may be more difficult to incorporate into the project

Association of Commercial Real Estate Executives – Inland Empire

# Thank you.

FEBRUARY 17, 2010