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# Construction Contracting In The New Program

## Los Gatos-Saratoga Joint Union High School District

November 20, 2014

Presented By:

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WISDOM

KNOW-HOW



# Project Delivery Options

- Publicly Bid:
  - Design-Bid-Build
  - Multiple Prime
- Negotiated, Non-Bid\*:
  - Construction Management At Risk
  - Lease-leaseback
  - Design-Build

[\* portions may be bid]
  
- Up front: the lawyer's bias?



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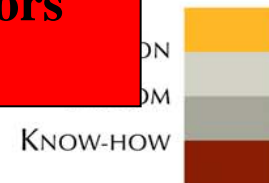
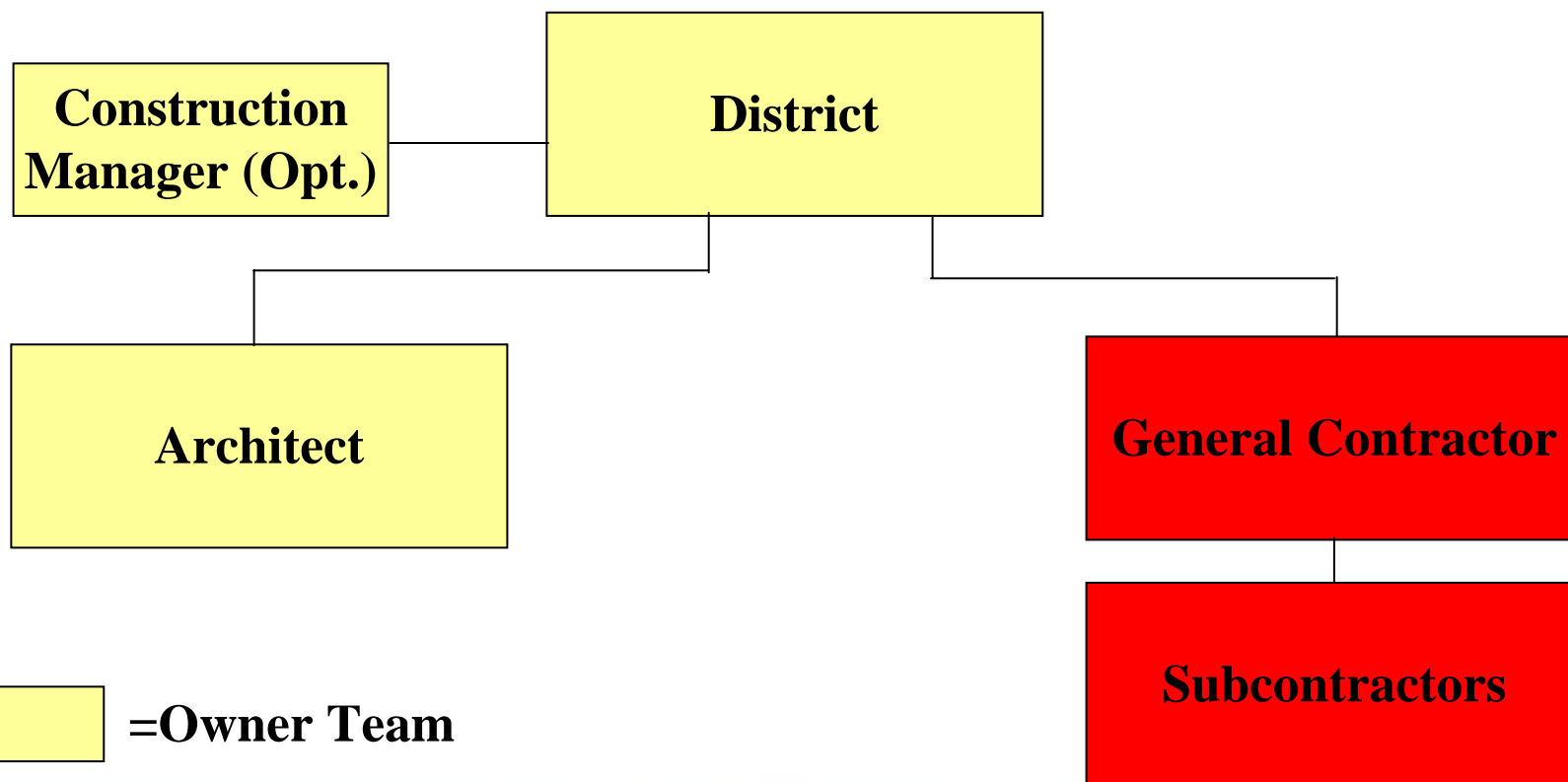
# BID CONTRACTS

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# Design-Bid-Build





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# Advantages

- Always accepted as legal, fair, economical.
- The lowest price on bid day.
- Familiarity in building and design community.

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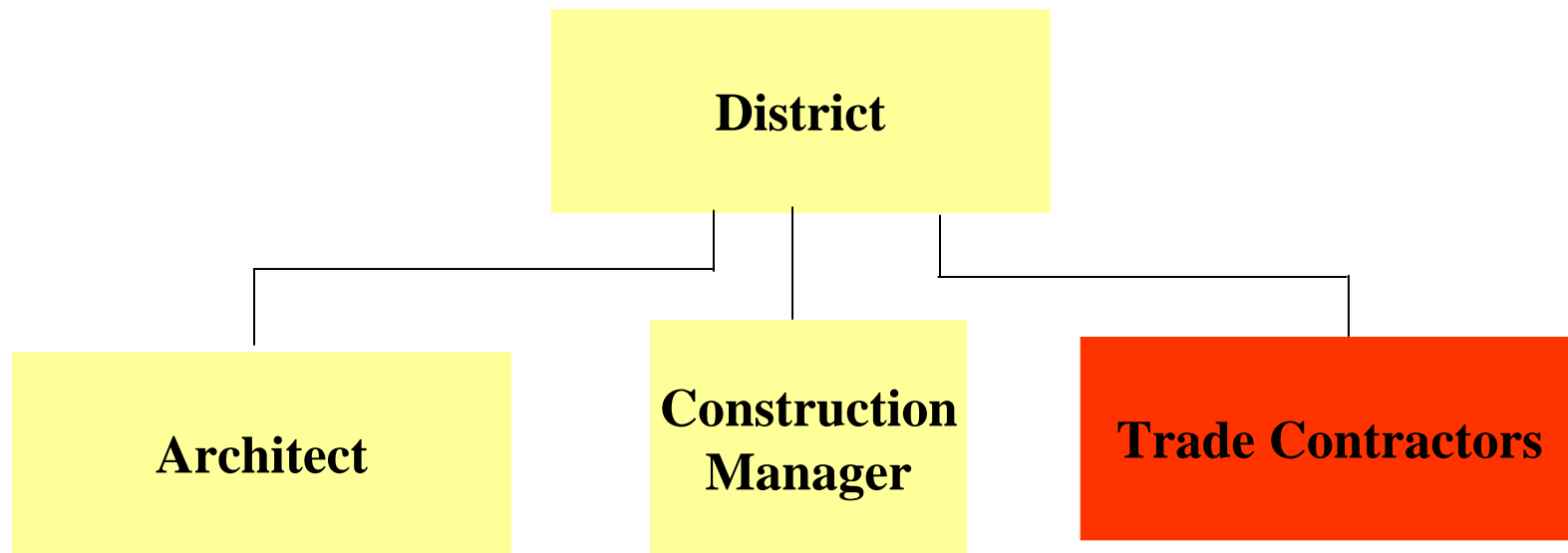
# Risks

- Source of more construction claims than non-bid methods.
- Owner has oppositional relationship with builder.
- Least control over time and cost overruns.
  - Builder's first involvement with design is when it sees the bidding documents.

## To Reduce Risk:

- Good construction documents: pre-bid reviews.
- Better contractor bidding pool: prequalification.
- Strong owner team.

# Multiple Prime Contracting



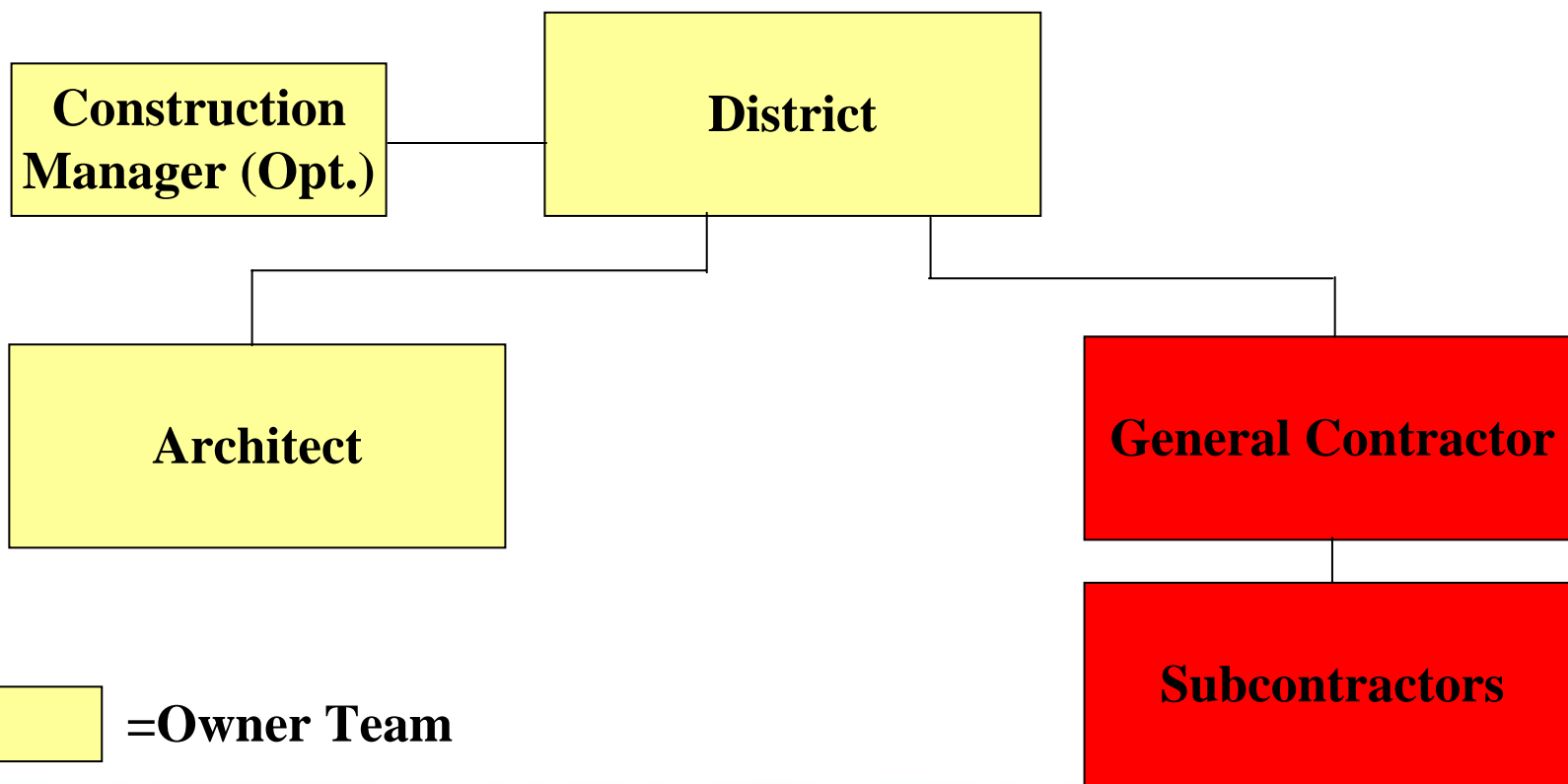
 = **Owner Team**

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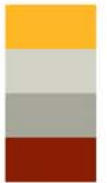


# Compare: Design-Bid-Build



# Advantages

- Saves general contractor markups: means could be absolute lowest construction cost.
- More control over trade contractors.
- Possibly less risk of claims.



## Risks

- No general contractor: all coordination, trade contractor interference issues, gaps in bidding scopes, etc. on the owner.
- Very few owners can or should manage without outside construction management, cutting into cost advantage.



## To Reduce Risk:

- Obtain pre-bid reviews of bid documents to eliminate gaps in coverage/double coverage, etc.
- Strong owner team; select strong construction management.
- Prequalify at least key trades.





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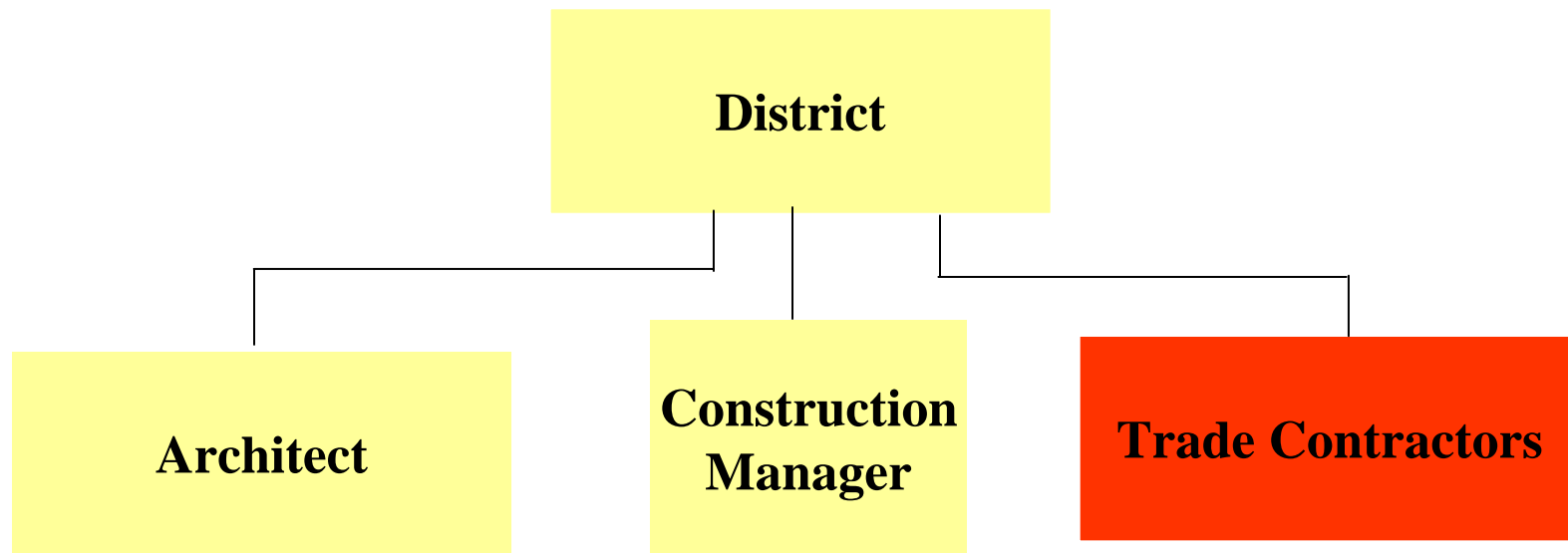
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# NEGOTIATED CONTRACTS

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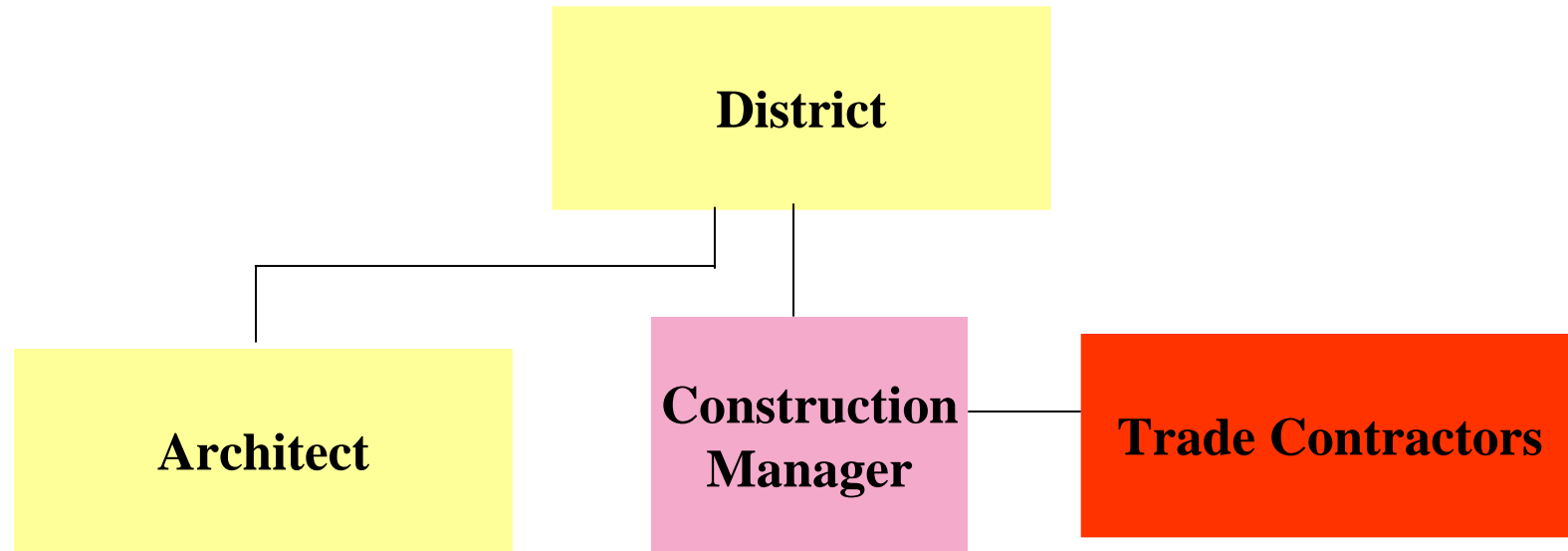
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 = **Owner Team**

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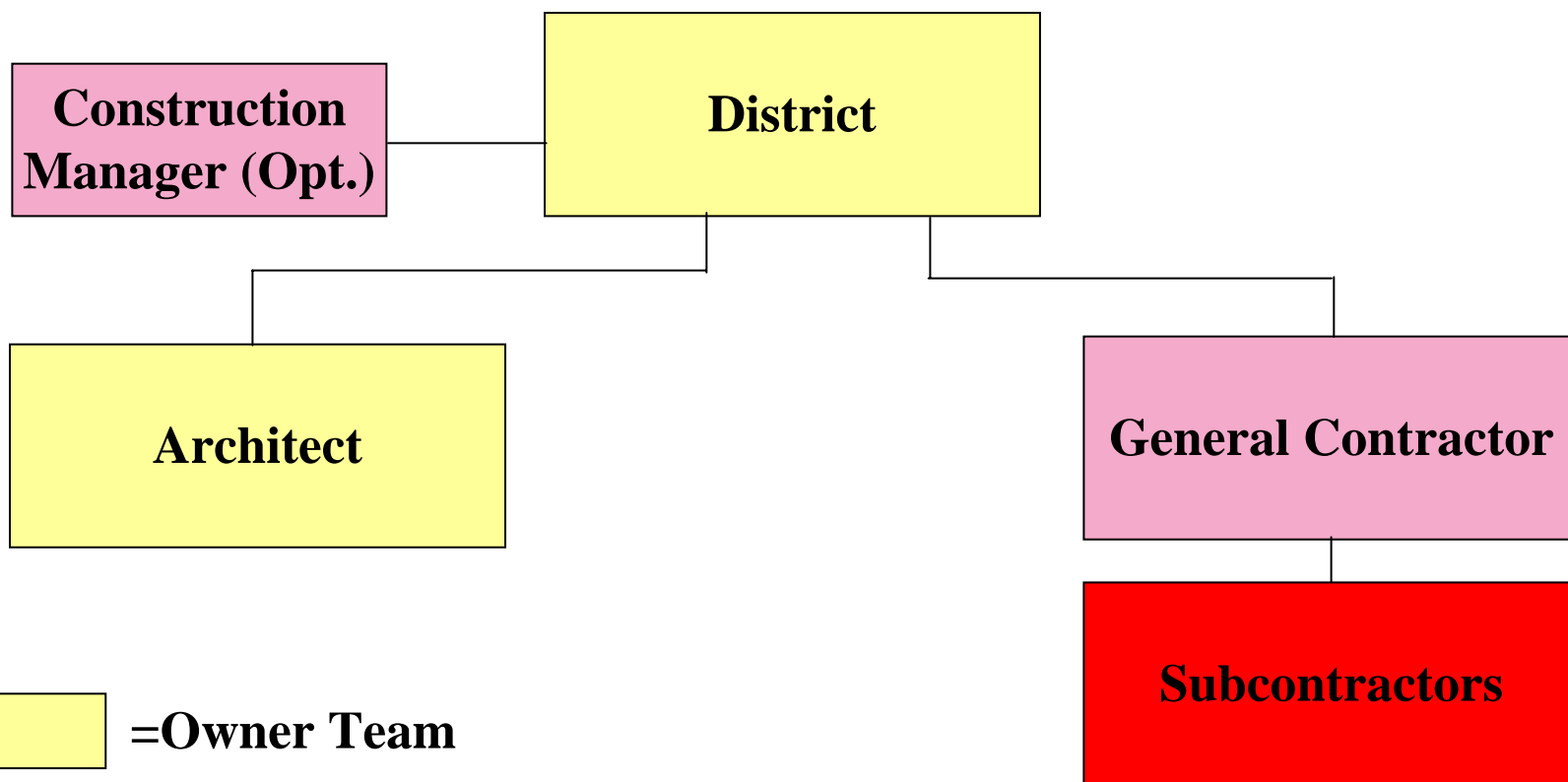


 = **Owner Team**

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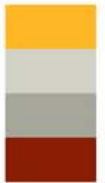
# Compare: Design-Bid-Build





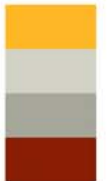
# Advantages

- Select the builder.
- Builder, as CM, is involved in design phase.
- Advantages of multiple prime contracting:
  - Cost savings
  - No general contractor (markup, claims etc.)
  - Control over trade contractors
- Reputed to be fewer claims, more cooperation.



# Risks

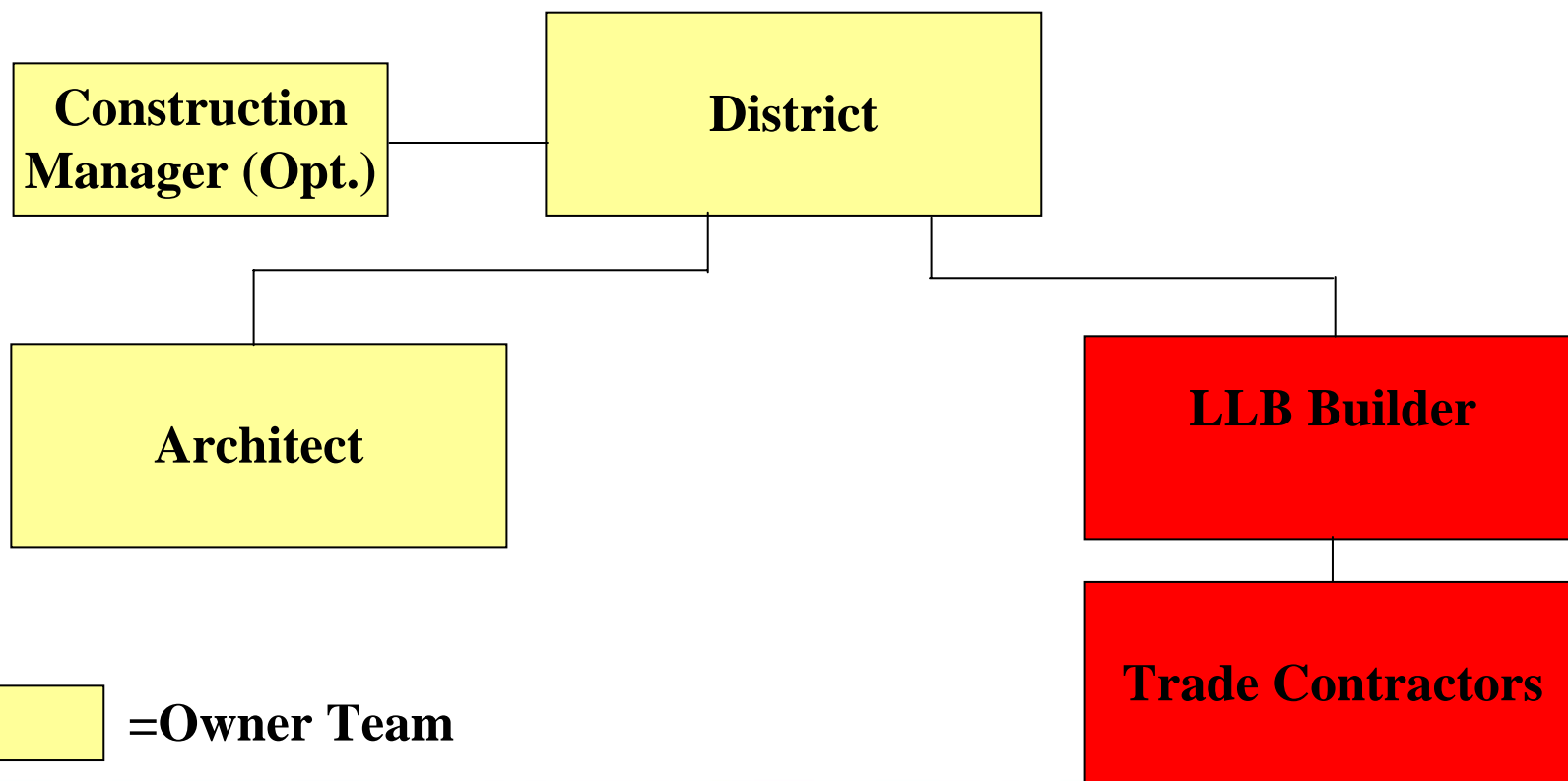
- Legality issues.
- Same coordination risks as with multiple prime.
- CM's business interests side with the contractors, not the owner.



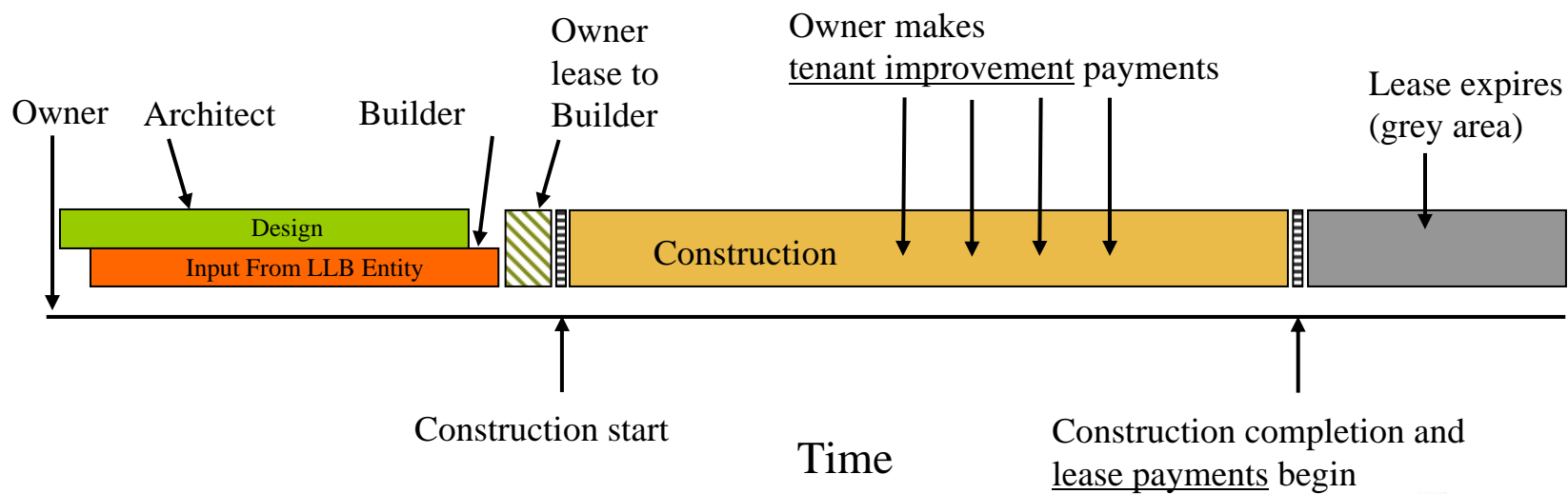
## To Reduce Risk:

- Remove true “at risk” provisions to stay legal.
  - But removes key advantage of the approach
- Same pre-bid processes as with multiple prime.

# Lease-Leaseback

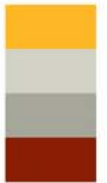


# Lease Leaseback Timeline



# Advantages

- Select the builder.
- More certainty on time and budget.
- Builder gets involved during design process.
- Fewer claims, generally.
- If repeating use of same design on different sites, familiarity for builder.



# Risks

- Costs higher than bid contracts.
- Questions re legality – largely a settled issue.
- Potential statutory changes ahead.

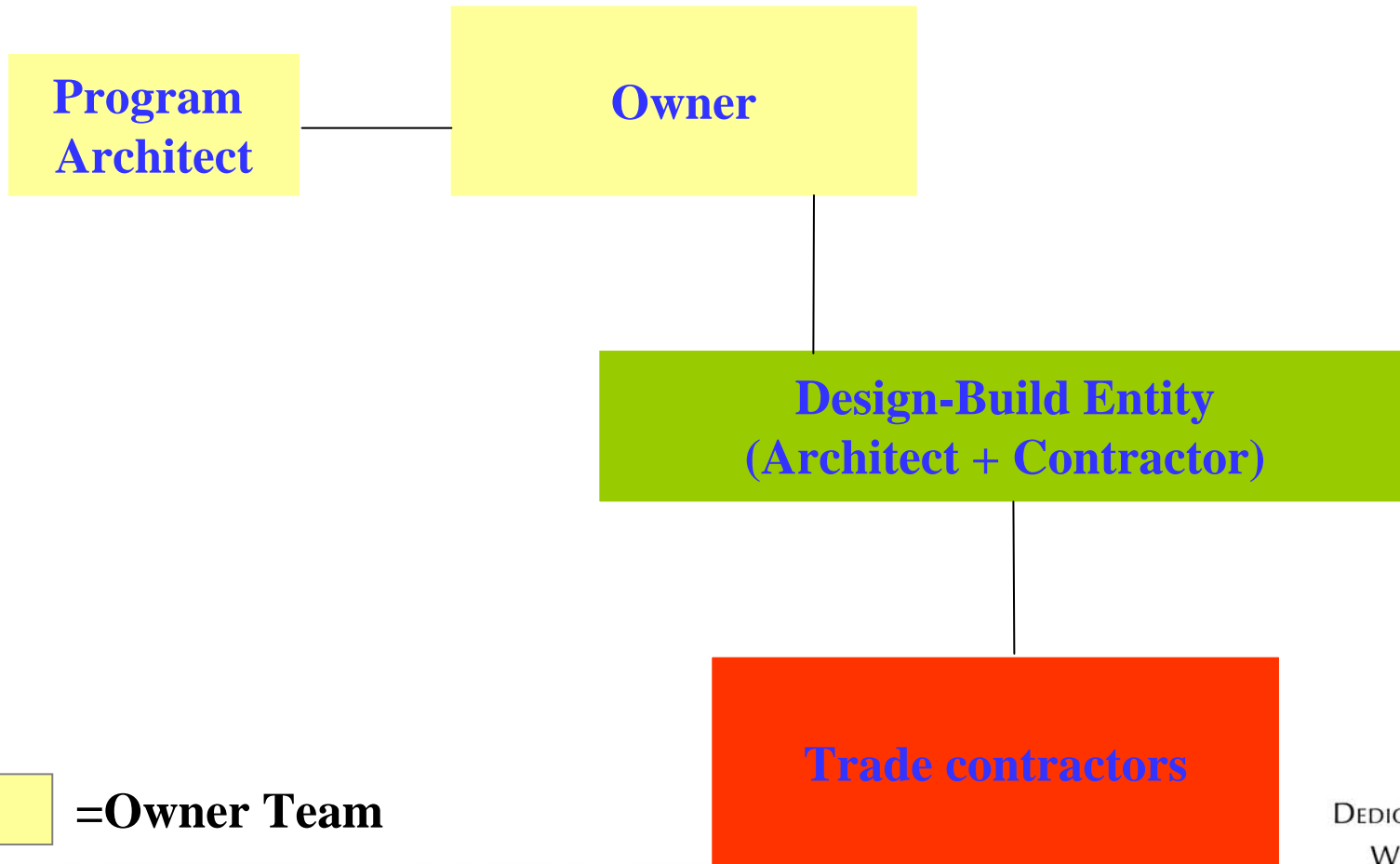
## To Reduce Risk:

- Competitive selection process to get best builder.
- Require transparency of Guaranteed Maximum Price; bid key trades to prequalified sub-bidders to reduce costs.
- Validation action filed after Board approves contract.



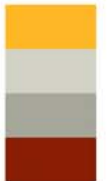


# Design-Build



# Advantages

- Select builder.
- Reputation for on time, on budget delivery.
- Fewer claims.

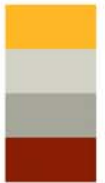


## Risks

- Costs higher than bid contracts.
- Generally accepted as suitable for experienced owners, larger contracts.
  - Statutory minimum: \$2,500,000
- Owner loses control over design early in the process.
- Architect is not tied to owner.
- Time advantage and design flexibility reduced by statutory requirements.

## To Reduce Risk:

- Evaluate suitability for District and its projects.
- Strong “bridging architect” and early planning efforts.
- Select builders with experience on similar projects, check results.





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# COMPARING PROJECT DELIVERY OPTIONS

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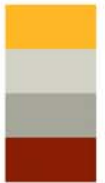
# If Cost Is Most Important

- Best: Multiple prime; Design-bid-build
- Least: CM at risk; Lease-leaseback; Design-build



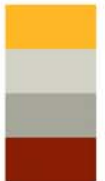
# If Budget Predictability Is Most Important

- Best: Lease-leaseback; Design-build
- Least: CM at risk; Multiple prime; Design-bid-build



# If Avoiding Claims Is Most Important

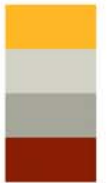
- Best: Design-build; Lease-leaseback
- Least: CM at risk; Design-bid-build;  
Multiple prime





# If Staying On Schedule Is Most Important

- Best: Design-build; Lease-leaseback; CM at risk
- Least: Design-bid-build; Multiple prime



# Recommendations

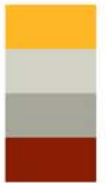
- For this program, Design-Build and CM At Risk do not appear to be good options.
- Remaining options each have advantages and may be appropriate for some projects in the Program:
  - Design-bid-build (bid)
  - Multiple prime (bid)
  - Lease-leaseback (negotiated)

# Bid Contracts

- Either general contractor (design-bid-build) or multiple prime models can work.
- In both cases, most districts will use some outside construction management – pretty much mandatory for multiple prime.
- Plan for investments in design review, prequalification, and other prevention.
- Cost savings may partially be offset by claims, overruns, schedule impacts.

# Negotiated Contracts

- Lease-leaseback is the only non-bid option we recommend here.
- Cost premium may partially be offset by certainty on schedule, budget; possibly enhanced quality.
- Focus on experienced builders; select competitively; involve early in design process.





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# A WORD ON THE OWNER'S TEAM

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# Operations Team

- Facilities Director-level position in house?
- Program management
- Construction management





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Thank you.

SAN FRANCISCO

LONG BEACH

SAN DIEGO

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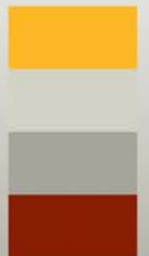
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