MEMORANDUM

TO: AGC Executive Committee
    AGC Board of Directors

FROM: Randy Douglas, Legislative Committee Chair

DATE: October 21, 2015

SUBJECT: Approval of 2016 Legislative and Government Affairs Program

This memorandum requests that the Executive Committee and the Board of Directors approve the 2016 Legislative and Government Affairs Program as recommended by the Legislative Committee.

The Legislative Committee met on October 7, 2015 and recommends adoption of the following items for inclusion in the 2016 Legislative and Government Affairs Program.

1. **Infrastructure and Transportation Financing**

At the top of AGC’s agenda issue for 2015 was securing permanent financing for transportation and other infrastructure projects, and this issue likely will continue into 2016.

AGC spent considerable time and effort in 2015 with the Chair of the Senate Transportation Committee, Senator Jim Beall; Assembly Speaker, Toni Atkins; and Assembly Transportation Chair, Assemblyman Jim Frazier on crafting a major transportation financing program however a compromise solution was not able to be achieved before the conclusion of the 2015 Legislative Session.

In response, the Governor called a Special Session of the Legislature to focus on transportation and infrastructure issues, and the first legislative hearings of the Special Session were held last July in the Senate and Assembly. This led to the introduction of numerous bills proposing various funding ideas, as well as reforms and accountability relating to Caltrans and the California Transportation Commission.

In an effort to “kick start” the negotiations, a week before the end of the Legislative Session, the Governor offered a $3.6 billion proposal split between state and local projects and also included several of the reforms listed above. Instead of negotiating a compromise, the
Republicans and Democrats came to an impasse, and no “deal” was able to be achieved by September 11.

Since the Special Session called by the Governor can continue through the rest of this year, the Senate and Assembly formed a “conference committee” of both Republicans and Democrats, so that work towards a compromise plan can take place before the Legislature reconvenes in January. It is likely this issue will carry over into 2016.

2. Preparation of Stormwater Plans (SPONSORED BY AGC)

In 2015, AGC sponsored AB 1315 authored by Assemblyman Luis Alejo that would require public agencies to prepare and design stormwater plans prior to putting a project out to bid. The bill was co-sponsored by the Construction Employers Association, Southern California Contractors Association, National Electrical Contractors Association, United Contractors; and the California Legislative Conference of the Plumbing, Heating and Piping Industry.

The Assembly Appropriations Committee analysis on the bill indicated the bill could result in a mandated program that could require reimbursement to local agencies and create an obligation for the State General Fund. Amendments were drafted to eliminate the potential mandate, but those amendments were not accepted by the Appropriations Committee, therefore the bill was held in Committee. AGC is exploring different options to move forward with the legislation when the Legislature returns for session in January.

3. Prevailing Wage Claims – Bond Option (SPONSORED BY AGC)

AB 326 authored by Assemblyman Jim Frazier will allow the Department of Industrial Relations (DIR) to accept a bond instead of a cash deposit for a contractor to avoid assessment of liquidated damages arising out of a prevailing wage claim. The bill was held for future hearing in the Assembly Labor Committee following concerns raised by the State Building Trades that resulted in the Committee Chair to decide to postpone consideration of the bill until 2016.

AGC continues to discuss the bill’s intent with the DIR in an effort to reach consensus as we pursue legislation in 2016.

4. SB 465 (Hill) – “Balcony Collapse Bill” – Required disclosure of Settlement Agreements.

SB 465 was amended late in the 2015 Legislative Session following media coverage of the Berkeley balcony collapse, which caused the death and injury of several students.

SB 465 would require all contractors to submit documentation for convictions of felonies or any other crimes substantially related to their qualifications or duties, as well as settlement agreement information, to the Contractors State License Board (CSLB). Since these types of disclosures are provided in other professions, Senator Hill believed...
that expanding these provisions to construction would provide the CSLB and the public with critical information about a contractor’s history and lead to appropriate action.

This approach was very problematic and AGC led the opposition against this measure, resulting in failure of the bill in the Assembly Business and Professions Committee. The CSLB is following up with stakeholder meetings to determine if there are parameters under which certain information should be disclosed to the Board in order to promote safety and competency.

This issue likely will again be revisited in 2016 following the results of the stakeholder meetings held by the CSLB.

5. **Disgorgement of Funds – Business and Professions Code Section 7031 Amendments**

This proposal would amend Business and Professions Code Section 7031 regarding recovery of compensation paid to an unlicensed contractor. AGC would seek co-sponsorship from the construction and labor community.

The Contractors State License Board (CSLB) indicates the problem arises when this provision is broadly applied to a contractor that is unlicensed for any period of time during the performance of a contract. The consumer can withhold or seek to recover all compensation already paid for the entire project. This can allow a person or entity to potentially have a large scale project completed without any payment, even if there are no problems with the quality of the work performed. While the contractor would certainly be penalized, subcontractors and suppliers may also go without payment, due to circumstances over which they had no control.

This proposal would repeal the existing section and replace it with provisions that would still require a contractor to be licensed at all times. It also would allow a court to determine whether or not a contractor had substantially complied with the licensing requirement if he or she was licensed when the contract was signed, but then subsequently performed work either outside his or her classification under a suspended license or an expired or inactive license. A contractor meeting those criteria will be able to seek payment for work performed only when he or she was properly licensed.

6. **ACA 4 (Frazier) – Local Transportation Sales Tax Vote Requirement (SUPPORT)**

ACA 4 provides that the imposition, extension or increase of a sales and use tax or transactions and use tax for local transportation projects will require approval of 55% of those voting on such a measure, rather than the current 2/3rds vote requirement.
7. **Skilled Workforce Language from SB 785 (Wolk) – Design Build**

Senate Bill 785 was sponsored by AGC in 2014 and contains language requested by the State Building and Construction Trades requiring specific increasing percentages of journeypersons who have graduated from approved apprenticeship programs to be employed on state and local public work projects. This language will apply to public works projects advertised for bid after January 1, 2016. In addition, new legislation has been enacted that also contains very similar language.

AGC will monitor the implementation of these provisions to determine if there are problems for AGC contractors to be in compliance while submitting bids.

8. **Public Works Registration Program and Fee**

The requirement for contractors performing on public works to register with the Department of Industrial Relations and pay a $300 annual fee is now a year old and all public works contractors are required to renew their registration and pay a new annual fee in 2016. AGC will notify all contractor members of this requirement and monitor the DIR budget hearings when this issue is discussed during the legislative budget hearings in 2016.

9. **Bonding Around a Stop Notice**

The committee discussed issues with Caltrans and other agencies concerning the general contractors’ ability to provide a bond to cover a stop notice action so that work can continue on a public works project. Legal counsel will provide language for a recommended solution for further consideration for sponsored legislation.