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The U.S. Environmental Protection Agency (EPA) has awarded CalPortland Company the National ENERGY STAR® Award for Sustained Excellence in recognition of its continued leadership in protecting our environment through energy efficiency. CalPortland’s accomplishment over six consecutive years is a feat that has never been matched by any other U.S. building materials company.
Helping Build Your Bottom Line

As California continues to be affected by one the deepest recessions in recent memory, most of us have experienced the financial impact and unemployment crisis it has had on the construction industry. While businesses must manage their cash flow and identify new opportunities for income in order to stay in business, today’s contractors must also develop and implement business solutions that will make them more efficient and profitable. A practical business solution is an effective insurance program which provides your company protection while enhancing profitability.

It is important for all contractors to have a solid understanding of the different types of insurance available to the construction industry. For example, licensed contractors are required to maintain a surety bond for the benefit of consumers who may be damaged as a result of defective construction or other license law violations. Construction professionals should also know how to effectively manage contractual risks and the insurability of construction projects. These factors, along with an effective safety program, will ensure that there is adequate coverage to protect your company.

Additionally, an effective safety program impacts your company’s bottom line, in terms of lost time due to injuries as well as workers’ compensation premiums. Companies with a comprehensive and tailored safety program can receive premium discounts. Keeping your workers safe not only reduces the number of workplace accidents, but it is also the best way to lower rates. Some insurance carriers will offer additional discounts to construction companies who demonstrate concern for safety by offering programs such as substance abuse prevention and treatment for their employees.

On the legislative/regulatory fronts, AGC has been vigilant in opposing elimination of type I indemnity clauses in construction contracts. Any action that places contractors in a position of greater liability will drive insurance costs up for the contractor and in turn the consumer. Recently AGC filed an Amicus brief in the Harris construction case involving the ongoing matter of Cal/OSHA responsibility on applying the “controlling employer” definition when a violation is alleged. The Judge ruled favorably, making it clear that he intends to issue a very narrow order directing the Appeals Board to rewrite their decision; this would serve to eliminate the portion of a prior court decision requiring Cal/OSHA to determine whether an alleged “controlling” employer had the actual ability to abate a specific hazard.

AGC has adopted a value-added approach by offering programs and services that help build your bottom line. Since 2005, AGC and SeaBright Insurance Company have worked together to provide a workers’ compensation insurance program for members. This program was designed to provide contractors with expert loss control resources such as assistance in risk management and safety planning, work site surveys, customized supervisory training of safety programs and a written loss control services plan. The discounted workers’ compensation insurance program is available exclusively to AGC members through SeaBright-appointed brokers and through our own safety group. If you are not participating in our workers’ compensation program, we encourage you to consider it for the next renewal of your workers’ compensation policy.

In addition to AGC’s workers’ compensation program, SeaBright has launched a General Liability (GL) insurance program, which is coupled with their workers’ compensation program and written through PointSure. This new program, intended for new and renewal business with SeaBright Insurance, can be custom tailored to fit your company’s needs, and we believe you will find the available coverage and pricing to be very competitive. For more information on both the workers’ comp and GL programs, please contact Mike Navin at (916) 371-2422 or navinm@agc-ca.org.

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Water Bond Needed To Protect Water, Environment, Economy

By Jim Earp

There is universal consensus among scientists, academics and water experts that California’s water system is at risk of catastrophic failure unless we take action now to reverse decades of neglect.

Drought over the last three years, inadequate infrastructure and our changing climate mean that the state will face continued water shortages even if rains return to average levels. And the physical infrastructure – Delta levees, pipes, under and above ground storage, aqueducts and water ways – that stores and delivers our water is aging and not capable of meeting the demands of today’s population, economy or environment.

Immediate and decisive action is needed now to begin reversing decades of neglect and to prevent the sudden, systemic failure of our water system in the event of an earthquake or flood, which would cripple the Golden State.

Those are just some of the reasons why, today, a broad-based and unprecedented coalition of organizations (including the AGC), representing environmentalists, farmers, business, labor, water agencies, taxpayers, and community groups, formally launched the campaign to support The Safe, Clean & Reliable Drinking Water Supply Act of 2010. The group will build a strong campaign and work aggressively between now and November to educate the voters about the vital need to pass this measure. The November water bond would authorize responsible investments to repair our water system, including investments to:

- Develop more reliable water supplies by improving the infrastructure that stores and delivers water.
- Clean up drinking water sources by funding emergency actions to clean up water supplies in at-risk areas, cleaning up groundwater contamination, and protecting rivers, lakes and streams that end up as drinking water.
- Protect and restore the environment by improving water quality, providing vitally needed ecosystem restoration in areas vital to our water supply and investing in conservation and watershed protections.
- Increase local water supplies through funding of local and regional projects to clean up local water sources and reduce dependence on water brought in from other regions.
- Restore the Delta. By fortifying hundreds of miles of fragile levees and restoring the Delta ecosystem and habitats, the measure will help restore the Delta and prevent a sudden, full-fledged collapse of its infrastructure and natural environment.
- Enhance conservation and recycling by funding local water agency efforts to reduce water usage, enhance water-use efficiency and implement new water recycling technologies.

Strong fiscal accountability requirements – including independent audits, limits on administrative costs, and a requirement that bonds be sold slowly, over time as our economy and state budget improve – will protect taxpayers.

Some say now is not a good time to pass a water bond. But the fact is, waiting will make it much more expensive to fix our water system and will increase the chances of a catastrophic failure, which threatens our very quality of life, our economy and our environment.

Already, shortages of water have cost billions of dollars to our economy in lost farm production, and continued shortages threaten the very fabric of our economy. Industries like manufacturing, technology, construction, tourism and others must be able to depend on a reliable supply of water if California is to return to a period of economic growth and job-creation.

Without passage of this measure, wildlife and habitats in the Delta region and throughout California will continue to collapse. Continued deteriorating water systems will threaten our drinking water and public health.

Scientists have repeatedly warned that an earthquake or flood could destroy Delta levees and cut off water supplies for 25 million Californians for up to two years. The Public Policy Institute of California estimated that this type of catastrophic failure would cost our economy $40 billion. To understand more clearly what such a failure would mean to California, visualize the sustained damage New Orleans suffered after Katrina and multiply several times over.

Clearly, failure to act now is not an option.

We know that presently our state’s economy is a very challenging one in which to pass a statewide general obligation bond. However, we already have an unprecedented coalition that is growing every day; California urgently needs to pass this measure; and, we believe that when informed about this urgent need by our broad coalition, voters will strongly support our measure.

The benefits of passage will be essential and far reaching for California, while the costs of inaction are unacceptable. To learn more about the water bond and the broad coalition supporting the effort, go to www.WaterforCA.com.

Jim Earp is Executive Director of the California Alliance for Jobs. AGC is a founding member of the Alliance for Jobs and is on record in support of the Water Bond in action taken at the January 29 Board of Directors meeting.
CARB Holds Public Hearing on AGC’s Petition

In response to AGC of America’s petition filed in January, the California Air Resources Board (CARB) conducted a public hearing in Sacramento on March 11. A strong coalition supported by AGC contractors, construction workers and construction officials from throughout California urged CARB to reconsider delaying implementation of the off-road diesel regulation due to the tremendous downturn in the state’s construction activity.

Among those who offered comments and analysis:
- Dr. Lynn Reaser, president of the National Association of Business Economics and chief economist for Point Loma Nazarene University, cited data showing California’s construction industry will employ fewer people through at least 2015 compared to its 2006 peak employment of 900,000 workers.
- Jim Lyons from Sierra Research offered the latest analysis of CARB’s data which confirms that off-road diesel emissions are well below the state’s goal and will be for years to come.
- Michael Kennedy, general counsel for AGC of America, urged the Board that with the overwhelming evidence, it was imperative to delay implementation of the off-road diesel regulation for at least two years.

Several contractors provided examples of the true costs involved with the off-road diesel regulation. It was noted that a combination of equipment inventory reductions, equipment retrofits, repowers, or replacement of existing construction equipment have been completed; however, any capital outlays during 2010 are not feasible. Many contractors noted that due to the severe economic downturn in construction, a delay in the implementation of the off-road diesel regulation is needed in order to avoid further unnecessary losses and layoffs. ARB staff was urged to delay the implementation of certain fleet average requirements until at least 2015.

AGC of California CEO Tom Holsman commented, “A tremendous amount of effort has gone into convincing CARB that these regulations are not necessary due to the downturn in the economy and based on their own data. We are remaining cautiously optimistic that some small changes will be forthcoming that will serve to improve on what has already been acknowledged.”

While it is unclear at this point how much relief CARB will provide to the construction industry, it is very clear that the Environmental Protection Agency will play a role on the timing of these regulations and when enforcement of the regulations will begin.

For complete information on the off-road diesel regulation, go to http://www.arb.ca.gov/msprog/ordiesel/ordiesel.htm.
A Look at the 2010 Market for Bonds & Insurance

Major Price Increases Haven’t Hit Yet, But Changes Likely On Horizon as Underwriters Take Closer Look at Bottom Lines

By Dave Garese

First, let’s talk about the good news on the insurance front.

In 2009 the insurance industry was reasonably profitable in most lines of business. This means economic pressure to raise prices has not hit the insurance industry yet. The insurance company underwriters are under a lot of pressure to grow their books of business and not lose clients. General liability premiums are based on exposures. For contractors, general liability premiums, payrolls and gross receipts are the driving force behind the premiums. As we are all aware, payrolls and gross receipts have significantly decreased in the last year as a by-product of the recession.

Advantage to Contractors

All of this is working to the advantage of contractors. In this market most contractors are estimating lower payrolls and lower gross receipts for their next policy year. Usually, as the estimates go down, rates will increase. However in this market due to the issues above, if presented properly your insurance broker will be able to obtain lower rates for your next renewal even if you have lower payrolls and gross receipts.

Excess liability policies usually are priced as a percentage of the underlying policies subject to minimum premiums per layer. These days the excess layers are following the reduced prices of the underlying policies, but they are even less expensive.

In order to maintain their level of business, insurance underwriters are making deals on the auto, property, inland marine and builders risks policies in an effort to retain existing clients. This time underwriters have figured out that the best clients are the ones that they already have and are pricing their policies accordingly. If your firm has been loyal to your insurance carrier, you will be rewarded by the underwriters recognizing your loyalty with good deals. If your firm has moved almost every year, you might find that the market this year will be somewhat more difficult.

Now that we’ve looked at the good news, it’s time for the bad.

The reforms of the workers’ compensation system have worked. However, in the last couple of years, costs have increased due in part to medical inflation. Insurance companies are trying to raise their prices for workers’ compensation. Fortunately, not all carriers are consistently pushing the price increase. Therefore, it is important to have your broker shop your workers’ comp this year to get a good feel for the current market.

Bonding in 2010

The surety bond market has remained profitable in 2009. Some of the bond markets have taken some hits, but not enough to significantly damage their profits. History has shown that sureties do not experience their worst results until the economy starts to recover. As the recovery begins, contractors that significantly underbid costs may fail as material and labor costs begin to rise in response to the recovery.

In discussions with surety underwriters, it is clear 2009 was not a good year for construction. However, there are some exceptions of contractors specializing in niche markets that have not been hit as hard in this downturn.

The stimulus bill has not resulted in a lot of work to your average contractor in California. There are some exceptions, of course, with a few very large projects underway. These projects do not do much for your average contract, however. California construction unemployment is over 25%, so we are not looking at a very healthy construction market. Public works is a very difficult market these days with as many as 25 bidders per project; on most projects, being the low bidder may not be a guarantee of profit. With private work a scarce commodity in 2010, this is the only game in town.

Relationships ‘Name of the Game’

So how has all of this affected bonding? If your broker has helped you maintain a relationship with your surety, you are in better shape than a contractor just getting into the bonding market. In this market, relationships are the name of the game. The sureties are looking hard at financial statements these days. If a contractor is losing money, the surety is going to be looking closely at the cause. If the cause is lack of work, they will be more lenient than if the cause is losing money on projects.

The sureties respect a contractor that bids work at a price that includes profit and overhead, i.e., having a low hit ratio. If a contractor has taken the appropriate overhead cuts yet is losing money due to lack of work, the sureties will often make every effort to continue the business relationship. Last week we had an email from a surety underwriter stating, “Our client has lost a lot of money in the last fiscal year, but we are going to stay on this account as long as possible.”

Balance Sheets Garnering Close Scrutiny

We predict that the difficult construction market has had a substantial impact on the balance sheets of many contractors. This may have a negative impact on weaker firms that entered the public works market late in 2008 and in 2009. These firms have not had the time to develop the relationships with sureties. We think that the sureties will start reducing or eliminating surety credit for these firms when year-end financial statements are produced. This may serve to reduce the number of bidders on bonded projects and may have the effect of bringing pricing to levels that includes profit and overhead.

In closing, the time has arrived to cash in on those relationships you have been building with insurance and surety underwriters to help your firm ride out the current storm.

Dave Garese is Dave is CEO and a principal with Excel Bonds & Insurance. He can be reached at (916) 971-8844, or visit the company’s website at www.excelbondsinsurance.com.

THE VOICE OF THE CONSTRUCTION INDUSTRY
Save Money by Preserving Accident Evidence

By Mike Jonescu, SeaBright Insurance Company

When an injury occurs in the workplace, a prompt, thorough accident investigation can significantly improve the outcome of a claim and prevent similar future occurrences. However, an often overlooked detail is the preservation of all evidence, which can materially enhance the insurer's prospects for recovering against a negligent supplier, manufacturer or other third party. The insurer's recovery, also known as subrogation, can reduce its overall outlay for the claim, which favorably affects the employer's experience modification factor and can help control future insurance costs.

Subrogation is a legal process in which an insurance company pays for a loss and then seeks to recover the money from another party, or their insurance company, who is legally responsible for the loss. The beneficial impact of subrogation recovery efforts can be financially significant to the employer. However, too often these subrogation opportunities are lost before an investigation can even be commenced because evidence is not properly preserved. This is known as “spoliation of evidence.”

The legal definition of “spoliation of evidence” is “the significant alteration, destruction, or lack of preservation of evidence that is relevant to pending or future litigation.” In practical terms, this means valuable evidence is thrown away, repaired, modified, returned to a vendor, or lost by some other means.

While the need to preserve evidence may seem like common sense, spoliation in construction settings is far too common. For example:

• Through no fault of the worker, an aerosol spray can explodes in his hand, resulting in a loss of fingers. The can is thrown away by the injured worker’s supervisor.

• Workers using a man lift are severely injured when it suddenly collapses. The employer’s maintenance department sends the lift out for repairs before the cause of failure can be investigated.

• A worker breaks his leg when a ladder fails. The ladder is taken out of service and put in a storage shed for safekeeping. However, a yard worker throws out the ladder when cleaning out the shed.

• A worker dies in a single-vehicle accident when a company truck overturns. After the truck has been sold for scrap and cannot be located, it is determined that the accident may have been caused by a blown tire.

The missed subrogation opportunities from these accidents are substantial. In these scenarios, the opportunity to find a cause of the accident was lost when the evidence was not preserved, as was the potential claim cost savings from successful subrogation.

There are also legal ramifications. In certain states, spoliation of evidence can be considered a 3rd party tort and the offending entity can be sued. Those states include Alabama, Alaska, Florida, Illinois, Indiana, Louisiana, Montana, New Mexico, Ohio, and West Virginia. Closer to home, the California Supreme Court has done away with First and Third Party Intentional Spoliation of Evidence causes of action and a Court of Appeal has extended this to Negligent Spoliation of Evidence. However, California recognizes the availability of standard non-tort remedies to punish and deter the destruction of evidence. The available remedies may include: (1) Evidentiary inference that the evidence which one party has destroyed or rendered unavailable was unfavorable to that party; (2) Discovery sanctions under California Code of Civil Procedure; (3) Disciplinary action against the attorneys; (4) Criminal penalties for destruction of evidence under California Penal Code § 135.

With these issues in mind, it is imperative that the employer have a procedure in place for preserving evidence after an employee is injured. A good starting point is as follows:

1. Identify all witnesses, not just co-workers, who have information regarding the incident. Document each witness’ name, employer, address and phone number. Obtain statements if possible.

2. Identify all trades or other contractors on site.

3. Immediately secure any tool, device or product that may have caused the accident. Do not discard or repair the item before notifying your insurer. Note that an insurer may be willing to provide a temporary replacement rather than risking loss of the evidence. If multiple persons may be involved with the evidence, a chain of custody log may be appropriate.

4. Photograph and/or videotape all evidence and the scene of the incident, including any identifying markings on the evidence.

5. Determine if any other trade or con-

The failure to retain and secure evidence after an accident can be a significant monetary loss to the company, both through missed subrogation opportunities and, in some cases, incurring additional legal liability.

Mike Jonescu is Managing Subrogation Counsel for SeaBright Insurance Company.
Recent Supreme Court Ruling Appears to Extend Insurance Coverage for Contractors

By Marc L. Sherman, Esq.

Oftentimes when a contractor is sued it finds that its insurance policy does not cover some of the damages sought in the action. However, a recent California Supreme Court case, State of California v. Allstate Ins. Co. (2009) 45 Cal.4th 1008, appears to extend insurance coverage. When damages are sought that are indivisible and it cannot be determined what part is covered and what is not, Allstate holds that insurance carriers are responsible for all such damages. This decision has significant implications for contractors and construction defects litigation. It appears that an insurance carrier must pay for repairs on property or work that must be repaired to fix both covered and uncovered damage. Moreover, the rationale of the case suggest the coverage of “get to” damages, the costs to repair property that might otherwise be uncovered, such as removing and replacing drywall to get to a covered broken pipe.

Allstate arose out of damages at the Stringfellow disposal pit with respect to discharge of pollution to a waterway, an excluded occurrence, for which the State of California had been sued. Because there was evidence that the discharge also damaged land or groundwater, or could have been sudden and accidental, there was covered and uncovered damage which the State could not distinguish. (Allstate, supra, 45 Cal.4th 1008, 1029.) Accordingly, the case appeared to fall under the rulings of previous cases that had held when the insured could not differentiate the portion of damages that came from covered and uncovered causes, there was no coverage.

The Supreme Court in Allstate rejected those previous cases and instead applied its decision in State Farm Mut. Auto. Ins. Co. v. Partridge (1973) 10 Cal.3d 94, which involved coverage for a dual cause injury. The Partridge court had held that damage was covered even though it arose, in part, out of an excluded activity, because the insurer agreed to cover all amounts for which the insured would be held liable in a tort action. (Allstate, supra, 45 Cal.4th 1008, 1035; Partridge, supra, 10 Cal.3d at 102-103.) Thus, where there are concurrent causes of an accident, the excluded activity does not overcome the covered conduct. (Allstate, supra, 45 Cal.4th 1031.)

The Supreme Court indicated that this was in part due to the difference between first party coverage, concerning an insured’s own claim, and third party coverage, concerning claims against the insured. (Allstate, supra, 45 Cal.4th 1031.) It found that in third party cases, coverage was determined “under the law of torts.” (Id.) Thus, because standard policies indicate that carriers agree to pay “sums which the Insured . . . [became] obligated to pay . . . for damages . . . because of [property damage]” “an insurer is obligated to indemnify the policyholder even if other, excluded causes contributed to the injury or property damage.” (Id.) It reasoned, “a set of injuries for which the damages are indivisible is treated the same as a single injury: the tortfeasor is liable for the entirety of the damages.” (Id. at 1032.) Because of this, all indivisible tort damages that might be awarded by a jury even if they are due to a concurrent cause that may be excluded under an insurance policy, or if required to repair damages stemming from both covered and uncovered causes – would be covered.

For some time there has been a division in the cases regarding whether the costs to remediate damages covered by an insurance policy include the costs of effectuating a repair that also requires the repair of damages or property that may otherwise be uncovered. This is shown well by the case of CalFarm Ins. Co. v. Krusiewicz (2005) 131 Cal.App.4th 273. There an insured installed a wall, the sealing of which was defective, damaging its paint. To paint and reseal the wall, however, involved the removal of backfill soil, which backfill was part of the insured’s work and would not be covered due to the “your work” exclusion under the insured’s CGL policy. When the insurance carrier refused to pay for the backfill removal, it was sued for breach of the covenant of good faith and fair dealing. The court ruled that since there were cases that both permitted and precluded an insurance carrier’s having to pay for “get to” damages such as were involved with the backfill removal, that there could be no bad faith in the carrier’s denial.

Because such “get to” damages would commonly be included in a tort award against an insured for the repair of covered work like the paint on the wall, a good argument exists that they would be covered under Allstate. This would change the analysis of Krusiewicz so that an insured would be covered for the full amount of the repair, even if part of it would fall under an exclusion in its insurance policy.

Thus the analysis in Allstate indicates that insurance carriers are responsible to pay for all indivisible damages that may be awarded by a court due to an injury arising from an insured occurrence. This would be true even if some of the damages that which an insured may be liable to a third party were otherwise excluded. Thus, for instance, if part of a covered structure was injured and fixing it required the repair of another part of the structure that also required repair due to an uncovered cause, Allstate would require the insurance carrier to pay for that repair in total. Moreover, the carrier, under Allstate, would be required to pay for the damages required to get to such repair, even if doing so resulted in the repair of property for which coverage was excluded by the policy.

Marc L. Sherman has practiced law for 25 years, focusing on business, construction, insurance and real property litigation. He is currently of counsel to McLennon Law Corporation in San Francisco.
The season for contract negotiations in 2010 has officially begun, and the Industrial Relations Department has been hard at work surveying the membership, meeting with Trustees and preparing proposals. In a move that will likely set the tone for upcoming negotiations with other crafts, an agreement has already been reached with the Iron Workers (a state-wide agreement) to extend the term of the contract one year and freeze any wage or fringe increases. The proposed settlement was first approved by the Union Contractors Councils both in northern and southern California and then officially ratified by the membership on March 10.

Survey responses thus far have indicated a similar desire to keep wage and fringe increases to a minimum (if not a freeze), come up with a plan to keep Pension and Health and Welfare funds in the green and generally do as much as possible to help keep Contractors competitive in an increasingly saturated market. Under this umbrella fall the issues of travel time, training and apprenticeship, flexible working hours, etc. The Industrial Relations Department has brought these concerns to the various negotiating committees, who will then bring them to the bargaining table.

This year we will be negotiating contracts for the Operating Engineers, Laborers Parking and Highway and the Teamsters. If you are interested in becoming a part of a negotiating committee, or have an issue you feel needs to be address during negotiations, please don’t hesitate to let us know.

You can reach the Southern California Industrial Relations Department at (626) 608-5800 or ellingsent@agc-ca.org.
A current member of the AGC of California (AGC) contacted me with a typical dilemma. His company had just experienced a double-digit increase in their medical insurance. Over the past few years this increase had not been unusual for his company to experience, but it was becoming increasingly more frustrating because his options were limited. You see, his company was enrolled in California Choice medical insurance plans. His company has fewer than 51 employees and he needed to have multiple carriers and plan offerings to accommodate the needs of his employees.

When the economy was booming and unemployment was low, his company, and other companies with similar needs, contracted with California Choice. The main reason for choosing California Choice was because each of these eligible employees would have the option of choosing, individually, from multiple carriers such as Health Net, Blue Shield, Western Health Advantage and Kaiser and from multiple PPO, HMO and HSA plans. Even though most of these companies were small, their benefit offerings could rival larger companies.

At the time this business owner was unaware of the AGC Health Trust. Through the trust, similar benefits are available to all members of AGC, even sole proprietors. When we had the opportunity to give his company a quote this year, we too were able to offer similar PPO, HMO and HSA plans with carriers such as Health Net, Western Health Advantage and Kaiser and to offer Delta Dental, Medical Eye Services, Blue Shield and Cigna for ancillary benefits. When we compared these similar Trust plans to his California Choice plans, we found we were able to save his business approximately 15% or more off of his renewal rates. By introducing Health Savings Accounts (HSA), his company was able to save an additional 10% without forfeiting the networks and benefits that they had been accustomed to having. As a matter of fact, the employer was able to fully fund the entire deductible for each of his employee’s HSA with the premium savings from the trust’s plans. He was also able to lower his company’s overall benefit costs moving forward.

If you and your company are interested in exploring the premium savings opportunities with the AGC trust, please feel free to contact my office at (916) 486-2900 or email us at info@amesgrenz.com. Rob Ford is President of Ames Grenz Insurance Services, Sacramento.
How Do You Build Two Homes in One Week?  
Just Ask AGC’s CSU Chico Student Chapter  

By David Shirah

How do you build two houses in one week?  
Ask California State University, Chico’s AGC Student Chapter Vice President and student community service Project Manager Christina Pantera.

Pantera marshaled and led over 12,000 hours of service provided by students, faculty, industry advisors and the Chico community at large. Under the AGC’s student leadership, the Catalyst Blitz Build Transitional Housing project for victims of domestic violence galvanized a community as 200 student volunteers, the City of Chico, service clubs, foundations, non-profits and industry came together to give back to their community and make the project a reality.

City of Chico Mayor Ann Schwab eloquently described the student organized and lead project as a community building endeavor, noting, “What builds a community are the folks that live here, so I see the students as a real part of the community. Although they may only be a part of the community for four years, they are a huge factor for our community.” No project in recent memory demonstrated this more than Catalyst Blitz Build.

Although the project was nine months in planning, January 16th officially kicked off the Catalyst Blitz Build, CSU Chico’s 2010 Annual Community Service Winter Break project. Students returned from their winter break a week early to undertake the project. This year’s project consisted of the construction of two transitional housing units over a nine day period for Catalyst, a local shelter for victims of domestic violence. Through the worst weather of the season, including driving rains, 30 MPH winds and all day power outages, 160 students lead by AGC Student Chapter leadership and its members constructed two 840-sq.-ft. homes for Catalyst Domestic Violence Services.

The Blitz Build project was not an unusual endeavor for the CSU Chico AGC Student Chapter. The chapter earned third place in AGC’s National Outstanding Student Chapter Contest for 2009. In only its second year of operation after being on hiatus for the several years, students were recognized for exceptional service and commitment to their community for last year’s Winter Break project, Re-Build Concow. The two-week Re-Build Concow project was a construction project in response to the needs of victims displaced and devastated by wild fire storms in Butte County during the summer of 2008. Nikki Kantor, this year’s student chapter President, says, “With Blitz Build and other community service and professional development projects, we have our eyes set on number one for this year’s Outstanding Student Chapter!”

A link to a Blitz Build time-lapse of the construction can be found at http://www.youtube.com/user/ChicoStateChannel#p/a/u/0/wndzwGoaRXs.

David Shirah is CSU’s Chico AGC Student Chapter Faculty Advisor.
AGC Unveils Remodeled Headquarters

By Carol Eaton

AGC of California unveiled its remodeled headquarters building in West Sacramento on March 9, staging an open house that showcased the newly completed project to dozens of eager members and visitors who turned out for the event.

The 25-year-old building received a top to bottom makeover that brought finishes and systems up to current standards, completely modernized its look and reconfigured interior space to accommodate large scale training events and meetings. Just prior to the open house, AGC’s Legislative Committee put the meeting space to its first major use by holding its quarterly meeting on site.

The project scope included new flooring, ceiling tiles, lighting systems and furnishings as well as an extensive amount of deferred maintenance including roof work, electrical and updated plumbing systems. Changes to the entry and parking areas have brought the facility into complete ADA compliance. Interior spaces were revamped to add a 35-person capacity training room complete with audio AV, a flat panel presentation screen and state of the art sound system. Existing conference rooms were also remodeled, including a revamp of the Executive Conference room to include updated furniture, a 65-inch flat screen TV, projection wall and basic video conferencing capabilities.

One room previously used to store old files was remodeled into a mini-gym in a nod to the association’s commitment to health and wellness for its employees. Another former office, now dubbed the “Past Presidents’ room,” heralds AGC’s rich history in California and is staged with historical artifacts and documents that include Chapter charter plaques from the 1920s and ’30s, a book of minutes from Chapter meetings in 1934, and the original artistic rendering of the AGC Constructor Award statue from 1987, among other things.

Panattoni Construction, Inc. took on the $700,000 project (the total cost that included equipment and furnishings) for AGC of California, completing the construction in about six months. Additional AGC member firms who contributed to the project included Hensel Phelps Construction, Unger Construction, HMH Builders, Rex Moore Electrical and Frank M. Booth.

Panattoni Senior Vice President Bob Christenson, AGC of California’s President for 2010, headed up the subcommittee that had spent several years exploring the various building options for the association, including purchase of a new building as well as remodel of the existing facility. He explained that his company’s involvement on the project was a “natural progression” of his work on the building subcommittee. “Our com-
pany volunteered to do the work, essentially at cost,” he notes. “AGC now has a building that truly reflects its position as a leader in the construction industry,” he added. “And from a purely economic viewpoint, it will also allow substantial cost savings because of the on-site training capabilities as well as the decreased operating costs due to the more efficient systems the building now has.”

The decision was made early on to pursue LEED silver certification for the AGCC headquarters remodel project, according to Christenson. “We decided if we were going to put this much money into the building and bring it to today’s standards, as an industry leader we needed to set the standard and go for LEED certification,” he said.

AGC’s Vice President of Administration and Chief Financial Officer Mike Navin managed the project from the client’s end, working closely with Panattoni project manager Eric Curtis and designer Lisa Bullard with Interior Design Services, Inc. “We are very pleased with how the project turned out overall and of course the professionalism of Panattoni and the other parties involved in the project. They did a very good job of staging and scheduling it, getting the subs in and out,” Navin commented. “Despite the inevitable inconvenience that comes with working around a building that is actively being remodeled, our employees are all really pleased with the end product of these efforts.”

To date AGC has secured over $53,000 in sponsorships for various components of the project. A few of the major sponsors include Hensel Phelps Construction, Teichert and Flatiron, who have sponsored the large training room, and Otto Construction, who sponsored the small conference room, among many other companies and individuals that have committed to offset the cost of the project for the non-profit association. Ongoing sponsorship opportunities are still available by calling 916/371-2422.
So You ‘Won’ An ARRA Funded Project: Now What?

Five Tips for Making Music with the Strings of ARRA

By Jonathan J. Dunn and Joseph McFaul

Recognizing the need to address our nation’s deteriorating infrastructure and to combat the painful recession in economic activity, the federal government seized a chance to “kill two birds with one stone” and enacted the American Recovery and Reinvestment Act of 2009 (“ARRA”), popularly known at the “stimulus” bill. ARRA represents an opportunity for contractors to obtain federally funded contracts that rebuild our infrastructure, reduce unemployment and stimulate economic recovery. Of course, Uncle Sam is notorious for attaching “strings” to his dollars, and ARRA is no different. This article briefly highlights some important “strings” for contractors to look for when working on ARRA-funded contracts, which include many local government public works.

1. Identify Whether Your Job Is ARRA Funded.

ARRA is intended to provide funding for infrastructure improvements as a means to create jobs. A wide variety of construction projects have been identified in the bill. For example, the Army Corps of Engineers has been directed to spend over $4 billion on new construction, levee maintenance and flood control projects in the next three years. GSA will invest over $5 billion on new construction of federal buildings and courthouses before 2012. The Federal Highway Administration has been allotted over $27 billion for new highway construction, bridges and overpasses. Other government agencies will be issuing contracts for energy and water pipelines, port facilities and dam projects. In short, if you are working on an infrastructure project that an owner recently awarded, there is a fair chance it could be funded in whole or part with ARRA funds. If so, then somewhere in your contract, perhaps buried somewhere in boiler-plate conditions, the project should reference ARRA as a funding source.

If yours is an ARRA-funded project, the project owner is required to contractually mandate that the contractor comply with ARRA reporting, registering, ethics, buy American, wage and other requirements that may mean changing the way many contractors and subcontractors ordinarily do business.


The expenditures under ARRA are intended to have a ripple effect throughout the economy. With that aim, ARRA requires contractors to use American made iron, steel and other construction materials, with certain exceptions. Contractors on ARRA-funded projects are required to use American made materials unless domestic materials are either unavailable or are 25% more expensive than foreign equivalents. ARRA also has substantial recordkeeping and reporting requirements to ensure compliance with the goals of the Act. If a contractor will rely on an exception, it is important that the contractor identify the potential necessity of using foreign materials early and to document that need in an ARRA compliant manner.

For instance, if American made materials are too costly or unavailable, then the contractor must submit an application to use foreign materials prior to the use of federal funds on the project. The application must contain the backup documentation that American made materials are either too costly or unavailable. If the contractor does not obtain approval for the use of foreign construction materials until after the funds are obligated, then the contractor must explain why the request for the use of foreign materials could not have been anticipated earlier, which could affect funding and the contract price. These rules apply at both the prime and subcontract tiers. In order to avoid issues with funding or adjustments to the contract price, contractors would be smart to obtain the necessary approvals as soon as possible.

3. Comply with Davis-Bacon Prevailing Wages and Document Wage Payments and Job Creation.

ARRA also requires detailed wage documentation, reporting and information. First, all contractors must comply with the Davis-Bacon Act. Even if the construction contract is not a federal contract but is fully or partially funded by ARRA funds, then the contractor must also comply with the prevailing wage laws and properly classify employees and document their wages. The federal government will use the wage information to calculate the number of jobs ARRA created and to track overall effectiveness of the stimulus spending, so do expect the government to follow up. Contractors will be required to retain payroll records for three years and to make them available to the federal agencies monitoring the disbursements of stimulus funds, as well as to the Office of the Inspector General.
4. Implement a Whistleblower’s Program.

ARRA also codifies certain “ethical” whistleblower protections that were already incorporated into the Federal Acquisition Regulations (FAR) Mandatory Disclosure Requirements. There is substantial overlap between existing FAR requirements and ARRA whistleblower protections. However, both FAR and ARRA require posting worksite notices of rights and whistleblower protections. ARRA requires contractors to report any credible evidence of a false claim or other misconduct, including fraud, conflict of interest or bribery. While this sounds basic, this requirement may substantially change the way certain contractors do business.

5. Monitor Subcontractor and Supplier Compliance.

ARRA also applies to subcontractors and suppliers. For instance, the ethical and whistleblower requirements obligate the prime contractor for subcontractor and supplier conduct. Contractors should make sure that ARRA requirements and standard ARRA contract terms are included in each subcontract and purchase order. However, that may be insufficient, and certain trades may have to scrap the “usual” way of business if they include things like frequent buyer awards programs.

How to Get More Information on ARRA-Funded Projects

The federal government is attempting to make the expenditures of stimulus funds transparent to taxpayers. The recordkeeping requirements discussed above allow the federal government to provide information at Recovery.gov, allowing taxpayers to track stimulus spending and the progress of the recovery. The government also is making every effort to publicize the availability of ARRA funding for construction projects. Each federal agency will have a list of ARRA projects at the agency’s website. All agency websites can be found by visiting Recovery.gov. Furthermore there is a central location of available projects at FedBizOpps.gov. The government is also funding, training professionals, and implementing a program to ensure compliance with ARRA’s requirements. Therefore, contractors should be prepared for audit inquiries.

In sum, contractors prepared to work on ARRA-funded projects will encounter some additional paperwork and reporting requirements, but will realize the benefits of working on a well funded project backed by the government while also improving our nation’s infrastructure and putting Americans back to work.

Jonathan J. Dunn is Partner and Joseph McFaul is Special Counsel with Sedgwick Detert Moran & Arnold, LLP (www.sdma.com).

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Calendar of Events

<table>
<thead>
<tr>
<th>Date</th>
<th>Event Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>April 16</td>
<td>Project Manager 4: Scheduling For Management in West Covina</td>
</tr>
<tr>
<td>April 19</td>
<td>Lead Awareness Safety training in Oakland</td>
</tr>
<tr>
<td>April 21</td>
<td>San Francisco Bay Area District Oakland A’s Game at McAfee Coliseum</td>
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<tr>
<td>April 22</td>
<td>Tri-Counties Membership Meeting at F. McIntock’s, Shell Beach</td>
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<tr>
<td>April 23</td>
<td>Electrical Safety 70E Arc Flash class in Los Alamitos</td>
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<tr>
<td>April 26</td>
<td>North Bay District 10th Annual Golf Tournament at Peacock Gap Golf Club</td>
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<tr>
<td>April 27</td>
<td>Asbestos Supervisor – Refresher in Santa Ana</td>
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<tr>
<td>April 28</td>
<td>Asbestos Management Planner – Refresher in Santa Ana</td>
</tr>
<tr>
<td>April 30</td>
<td>Fresno Construction Career Awareness Day</td>
</tr>
<tr>
<td>May 3-6</td>
<td>Asbestos Worker - Initial 32-Hour training in Oakland</td>
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<tr>
<td>May 8</td>
<td>Electrical Safety 70E Arc Flash in Los Alamitos</td>
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<tr>
<td>May 10</td>
<td>D.O.T. Hazardous Materials Manifesting in Santa Ana</td>
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<tr>
<td>May 10-11</td>
<td>Asbestos 16-hour Management Planner in Santa Ana</td>
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<tr>
<td>May 13-14</td>
<td>2010 AGC of California Spring Conference in Monterey</td>
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<tr>
<td>May 17-19</td>
<td>OSHA 30-Hour Construction Safety Course in Santa Ana</td>
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<tr>
<td>May 21</td>
<td>On-Center On-Screen Takeoff online course</td>
</tr>
<tr>
<td>May 24</td>
<td>OSHA 10 - Hour Construction Safety Course in Santa Ana</td>
</tr>
</tbody>
</table>

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CLC Holds First Meeting of 2010

More than 60 attendees representing 16 companies turned out for the AGC Construction Leadership Council’s first membership meeting of 2010, held on February 23 at the Crown Plaza Hotel in Fullerton.

The evening included dinner and networking opportunities followed by a presentation from guest speaker, Michael Aparicio, Vice President, Los Angeles Operations/Transit, SKANSKA. Aparicio spoke to the group about leadership development, providing a personal insight as to how he was able to rise to his current position at Skanska, and offered a power point presentation with his “tips for success.”

Discussion points included:
• What companies are looking for in a leader;
• Becoming a visionary thinker;
• Setting appropriate goals and taking responsibility for achieving them;
• Stretching and challenging yourself to move to the next level; and
• Learning to delegate and make effective decisions

For more CLC information, e-mail clc.ca@agc-ca.org.

AGC Announces Staff Changes

AGC has recently announced several staff changes and appointments.

Kate Smiley has joined AGC of California as the new Manager of Safety, Health & Regulatory Services. She will be based out of AGC’s West Sacramento offices.

Smiley brings with her over 15 years experience in occupational safety, health and environmental services. Prior to joining AGC, she was with Turner Construction in California and Washington, where she evaluated the safety leadership and management processes. Before that, she supported SKANSKA project teams constructing office and fabrication facilities on multiple high tech campuses in Oregon and California.

Smiley has been active in the construction industry, participating as a member of AGC’s Safety & Health Council in Washington and in California. She is also actively involved with National Association of Women in Construction, Lean Construction Institute and the American Society of Safety Engineers.

Smiley attended the University of Illinois and is currently studying towards a degree in Associate Risk Management.

Dave Jones has been promoted to Vice President – Field Services and will be responsible for geographic region from Fresno to the Oregon border. Jones has been with AGC for over 20 years and has served as staff assignee for the Associates and Specialty Contractors Councils. Prior to that, he was the principle staff for the Building Division. In his new duties he will be responsible for supervising his staff in reaching the membership and service goals established in the annual operating business plan. He will continue to be based in AGC’s regional office in Fresno.

Michael Rodriguez has left his position with AGC at the end of March 2010 to pursue similar interests with an AGC member firm. He has been with AGC since January 2006 and served as its Director of Industrial Relations in Southern California. While replacement efforts are well underway, members with questions should contact the Industrial Relations Department at (626) 608-5800.

AGC’s Spring Conference: May 13-14

The AGC Spring Conference Committee invites you to return to the beautiful Monterey Plaza Hotel and Spa for this year’s Spring Conference. This year you can take advantage of informational seminars, forums and meetings as well as time to make new networking contacts. You will have time to meet with your peers and meet the industry’s top leaders.

On Thursday, May 13, come hear from Michael Menz, founding member of the Sacramento Valley Hi-Tech Crime Task Force, which was used as a model for FBI Cyber Crime Task Forces and other states and counties federal and local task forces. He has taught more than 5,000 law enforcement personnel and citizens about high technology crime.

The Men’s and Women’s Golf Tournament will once again enjoy the beauty of the lovely Poppy Hills, a Robert Trent Jones Jr. design course that opened in 1986 and is home to the Northern California Golf Association. After your round of golf, join us for a BBQ luncheon and raffle prizes drawing. Winners will be announced and sponsors will be recognized. Golf is limited to the first 80 paid registrants.

Also back by popular demand are the favorite Friday activities including the Kayak Tour of Monterey Bay. The Croquet participants will return to the Carmel Valley for fun and excitement at the beautiful Carmel Valley Ranch. Each activity and tour is suitable for people of all levels of experience, including beginners! Don’t miss this year’s special registration rates! Send in your registration soon so that you won’t miss this year’s event. For more information, visit our web page at www.agc-ca.org and click on the AGC Spring Conference link for a complete list of scheduled activities for the conference. You can download the registration forms or register on line.

Get your company’s name in the spotlight and become a sponsor. For sponsor opportunities, contact Pam Gray or Nicole LaMont at (916) 371-2422.

Make your hotel reservations early by calling the Monterey Plaza Hotel and Spa at (831) 646-1700. Be sure to request AGC’s special group rates. Reservations requested after April 20th, or after the room block is filled, are subject to the hotel’s prevailing rates.
## Top 10 Projects Awards

Following are the top 10 public project awards California last month, compliments of McGraw-Hill Construction.

<table>
<thead>
<tr>
<th>Project Title</th>
<th>Project City</th>
<th>Reported Low</th>
<th>Company</th>
</tr>
</thead>
<tbody>
<tr>
<td>CA/DOT Construct HOV Lanes - Connectors and 071219U4</td>
<td>Los Angeles</td>
<td>$109,299,289</td>
<td>Flatiron Constructors Inc.</td>
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<tr>
<td>Pauley Pavilion Renovation &amp; Expansion 94827201</td>
<td>Los Angeles</td>
<td>$79,788,000</td>
<td>PCL Construction</td>
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<tr>
<td>CA/DOT Highway &amp; 1 Bridge to be Widened &amp; 4 Bridges to be Constructed 04228594</td>
<td>Pittsburg</td>
<td>$64,937,452</td>
<td>OC Jones &amp; Sons</td>
</tr>
<tr>
<td>CA/DOT Doyle Drive District 4 Construct Tunnel 04163744</td>
<td>San Francisco</td>
<td>$57,712,535</td>
<td>R &amp; L Brosamer, Inc</td>
</tr>
<tr>
<td>Islais Creek Motor Coach Facility - Phase 1 MR1206</td>
<td>San Francisco</td>
<td>$24,610,001</td>
<td>Webcor Construction LP</td>
</tr>
<tr>
<td>Expo Phase 1 C-5 Aerial Station &amp; Structure IFBXP8901828</td>
<td>Los Angeles</td>
<td>$22,440,000</td>
<td>Balfour Beatty Infrastructure</td>
</tr>
<tr>
<td>One Stop Student Services Center 0909</td>
<td>Santa Maria</td>
<td>$21,407,000</td>
<td>Lewis C. Nelson and Sons Inc</td>
</tr>
<tr>
<td>Harry Bridges Boulevard Improvements 2711</td>
<td>San Pedro</td>
<td>$17,715,360</td>
<td>Shawnan</td>
</tr>
<tr>
<td>Physical Education Complex Renovation 1163</td>
<td>Whittier</td>
<td>$16,696,007</td>
<td>Edge Development</td>
</tr>
<tr>
<td>LAHC Library and Learning Resource Center 33H534802</td>
<td>Wilmington</td>
<td>$14,349,007</td>
<td>Edge Development</td>
</tr>
</tbody>
</table>

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**Markets at a Glance**

World Class Teamwork on the Larger, Complex Project and Program

By Jim Eisenhart

An approximately $2.4 billion construction project underway at Las Vegas’ McCarran Airport’s Terminal #3 is generally acknowledged to be one of the largest public construction contract underway in the United States. Like other large and complex projects that have preceded it, this project brought with it some major challenges that have benefited from “world class” teamwork – an approach in which organizational lines are blurred and individuals do “whatever it takes” to achieve team goals. In this approach, members help one another without being asked.

So what are some of the unique challenges of larger, complex construction projects and how can “world class” teamwork help manage them?

- **Risk.** There is obviously more at risk in all domains – financially, politically, socially, and personally. With increased risk comes either an imperative to collaborate or defend/transfer.
- **Greater Visibility.** These projects can be under constant public and media scrutiny. The Pentagon Renovation initiated in the late 1990s was a $2 billion-plus, multi-project program with its own organization (PENRYN). It was further challenged by the 9/11 catastrophe which occurred roughly a third of the way into its construction.
- **More Stakeholders.** Or as one individual put it, “we had a cast of thousands.” When Caltrans began its Toll Bridge Rebuilding and Retrofit program back at the outset of the century, for example, they held a separate partnering session for all the organizations that had something to say about the San Francisco Bay. More than 75 people from some 25 organizations were present, from the Coast Guard to a host of environmental organizations who felt they had a stake in the outcome.
- **Longer Duration.** McCarran’s Terminal #3 has a team goal of finishing in early 2012, or four months early, with an overall duration of three-and-a-half years. Transit projects in particular are not infrequently four to five years long. This lengthy duration manifests itself in a couple of ways. First, there are challenges associated with scheduling and coordination over the span of the project. How do you keep the team focused on the end game throughout the project? Secondly, these jobs can involve discreet phases of construction wherein different players are involved. Thirdly, there are the issues of turnover of project personnel. How do you sustain relationships when at the end of a four-year project you have maybe 50% of the ‘original cast’?

The increased use of joint ventures on larger, complex projects presents an opportunity as well as a challenge – namely, creating a “world class” JV team that is aligned and truly capitalizes on the resources and capabilities of all team members.

- **Owner’s Organization More Complex, Potentially ‘Multi-Headed.’** As one experienced contractor told us, “The team building process frankly had more value in getting the various owner functions and departments working together than it did in getting us working with the owner.”

Take airport terminal projects as an example. On large jobs there, you’ve got the airport’s own project management organization, maybe a third party program/project CM, airport operations, the airlines and concessionaires, the FAA, airport security/TCA and so forth. Often these groups are in conflict or of different minds relative to project expectations.

- **Increased Use Of Joint Ventures.** Whether it be design-build or just a joint venture to ensure surety coverage or combined construction expertise and sufficient resources, increasingly most large, complex jobs are completed by joint ventures. This presents an opportunity as well as a challenge – namely, creating a “world class” joint venture team that is aligned and truly capitalizes on the resources and capabilities of all team members.

The Imperative of Executive Commitment & Sustained Involvement

“World Class” teamwork on larger, complex projects mandates executive involvement and participation from the get go through to project completion.

On the approximately $800 million LA Metro’s Eastside Extension project, the executive team included the general manager of LA METRO and the CEO of the joint venture, Washington Group/Obayashi. They would meet in a facilitated three-hour session every three months over the duration of the project. The purpose? Mutually assess project progress against the team goals and communicate the commitment of both senior executives to a collaborative process.

Mike Aparicio, executive vice president from Skanska for Transit Operations, and formerly head of Washington/Obayashi’s Eastside Connection project for LA METRO, commented: “On a large, design-build transit job, speed of delivery is the single most important thing you have to achieve. On larger ($500 million-plus) jobs, the fixed cost of our time is enormous and on the order of $3- to $4-million a month. They have to be productive and the best way to be productive is through teamwork. Jobs are getting bigger and far more complex as we rebuild our infrastructure. If you fail to nur-
ture and build a world class team on these jobs, you seriously jeopardize your financial position as a contractor."

On McCarran’s Terminal #3, the CEO of Tutor Saliba - Perini Corporation, Ron Tutor, Bob Bolei, Bechtel’s program manager, and the general manager of McCarran International Airport, Randy Walker, met in a two-and-a-half hour session at the outset of the project with their top managers. In our experience, it is important in these sessions to openly ask some hard questions and reach a mutual and very personal understanding. Some of these questions might include:

• What do each of us see as the major risks on this project?
• What can we and our organizations do to either prevent them or mitigate their impact on project success?
• What does an ‘extraordinary’ success on this project look like to each of us?
• What does each of us personally have at stake in this success?
• How should we deal with instances where one of us perceives the other’s organization (or an individual) as not being a team player?
• What can each of us (the two CEO’s) do to promote and sustain a collaborative relationship between our organizations on this job?
• How will each of us jointly monitor and assess project success over the course of the job?
• What does our conflict resolution ladder look like – and when and how might we be involved in it?
• What if we executives agree to disagree?
• Which key third party stakeholders should be involved in the team building/partnering process?
• What can either or both of us do to ensure their participation and the support of their organizations?

Jim Eisenhart is president of Ventura Consulting Group with offices in Ventura, California and Houston, Texas. The company has partnered over 1000 projects since 1992. For more information, visit www.venturaconsulting.com or call (805) 650-8040.
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