Changes May be on Horizon for Insurance & Surety Markets

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Helping Members Manage Risk and Navigate a Changing Marketplace

AGC recognizes that California’s legislative and regulatory processes have a significant impact on businesses, particularly those in the construction industry. California’s budget and a changing marketplace, combined with a down economy, have forced businesses to rethink their strategies to survive in what some experts are considering the worst conditions since the Great Depression. In this issue of the California Constructor magazine, you will read about changes that are occurring in the insurance and workers’ comp markets and the ways businesses are managing risk in order to maintain a successful operation.

With market changes, AGC is looking out for its members and helping to mitigate the financial burdens introduced by legislation and onerous regulations. AGC is putting your membership dollars to work advocating for fair legislation and necessary change in order to protect the future of the construction industry. Recently AGC, as part of a significant coalition of professional advisors, actuaries and industry principals across the nation known as the Construction Industry FASB Coalition (CIFC), successfully secured revisions to a potentially dangerous regulation proposed by the U.S. Financial Accounting Standards Board (FASB) that included CIFC’s recommendation to remove withdrawal liability and retiree health and welfare benefit disclosures. These revisions saved contractors from significant financial obligations for reporting that otherwise would have negatively impacted their insurance and bonding. Audit costs alone would have doubled, at a minimum, for nearly all firms contributing to Taft Hartley trust funds.

At the state level, AGC is monitoring several hundred bills introduced during this year’s legislative session. One bill of particular importance that would have a significant impact on insurance and liability is SB 474 (Evans) – Type 1 Indemnity. Introduced earlier this year, SB 474 takes many of the provisions found in the residential construction liability compromise and applies it to commercial construction. Such agreements, often referred to as Type 1 Indemnity Agreements, were originally addressed by legislation affecting residential construction. Residential subcontractors found it difficult to secure insurance, placing them at great risk if they were uninsured or overexposed. At issue in the legislation is whether a general contractor can request a subcontractor to have additional insured endorsement for the general contractor’s active and passive negligence if it is part of the subcontractor’s scope of work. The bill also contains provisions that intend to define what shall not constitute active negligence for public owners and similar provisions that do not apply to generals, and it raises questions regarding new areas of liability exposure and increased costs.

AGC is actively working with the general contractor and the subcontractor communities, including representatives from the California Crane Operators Association, NECA California Chapter, and SMCNA, on several amendments to SB 474 (Evans) to ensure that an equitable compromise can be reached that works for both generals and subcontractors.

While the summary above shows only a small “return on investment” as a member of AGC, you also have access to AGC’s Affinity Programs that are designed to save your company money. Our Workers’ Compensation Insurance Program through SeaBright Insurance Company as well as our Verizon Wireless and Enterprise Fleet Program offer AGC members exclusive discounts and unique benefits provided to you by specialists in their respective fields. For more information on our affinity programs, contact Mike Navin at (916) 371-2422 or navinm@agc-ca.org or Dave Jenkins at (626) 608 -5800 or jenkinsd@agc-ca.org.

Getting involved in AGC helps you grow your business, and your strongest advantage is other AGC members. So remember: “It’s good business to do business with an AGC member.”

Thomas T. Holsman

Chief Executive Officer

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Chief Executive Officer
A Century of Reform

By Dave Ackerman

We can thank Hiram Johnson many times over, and we may be thanking him again for what he did for the people of California.

Hiram Johnson served as California’s Governor from 1911 to 1917 and displayed the characteristics which became his hallmark, becoming known as a reformer dedicated to battling vested interests on behalf of the people. He enacted reforms to give more power to the people over the state government by means of the initiative, referendum, and recall.

It is the power of the initiative that AGC has used several times a century later to place multiple measures on the statewide ballot over the last 21 years, resulting in voter approval of over $60 billion to finance various public infrastructure projects from highways, to schools, to water projects.

What about Referendums?
The initiative may be the most popular form of direct democracy in California, but 2012 has the potential for the spotlight to be recast on one of the lesser known of the powers created by Hiram Johnson: the referendum.

The referendum is nowhere near as popular in California as is the initiative. The secretary of state’s office says that only 19 such measures have been approved by voters since the inception of the state’s direct democracy system in 1911-1912. In the last decade, we’ve only seen five referendum measures: the 2004 successful effort to overturn a “pay or play” health care plan signed into law right before the 2003 recall of Governor Gray Davis, and the 2008 unsuccessful effort to invalidate four renegotiated Indian casino compacts.

But new referendums are on the drawing board:

• Recently, a referendum was filed to overturn a firefighting fee enacted in the new state budget. By year’s end, it could be one of at least four referendum proposals, asking voters to overturn the status quo.

• There’s also the legal fight over redevelopment agencies... and other potential legal challenges to come.

• Also possibly headed to the ballot in 2012, assuming signatures can be gathered in time: a referendum measure on SB 48, the law written by state Sen. Mark Leno (D-SF) to require school textbooks to include the contributions of gay and lesbian Californians throughout history.

• There also may be a referendum effort to invalidate the new political maps drawn by the independent Citizens Redistricting Commission.

Concerning the last bullet, when the people created the Redistricting Commission by enacting Proposition 20 in 2010, they also changed the referendum law to make it much easier for the people to bring up for referendum the actions of the commission, and to vote to reject their plans.

The state’s referendum law gives proponents 90 days to gather the required signatures, but importantly the authors of Proposition 20 provided that as soon as they submitted signatures, probably about November 15. A proponent can petition the Supreme Court to appoint a line drawing master on the grounds that the plans are stayed and the court must adopt new plans for the next election, in this case 2012. Just turn in signatures and the issue goes off to court.

Should there be changes to the initiative and referendum process?
The state Democratic Party executive board has pointed to abuses to the initiative process and earlier called on the Legislature to put restrictions on the paid signature-gatherers whom business and conservative groups often use to qualify measures for the ballot.

As a result, several “initiative reform” bills have been introduced in the Legislature this year to potentially inhibit the initiative and referendum process, or at least make that process far more burdensome. The ultimate result of these bills would be to curtail the main vehicle Californians have to reform a government that will not be reformed by our elected officials while leaving the methods favored by unions and liberal groups intact.

Assembly Constitutional Amendment 6 would require initiatives that spend money or create a new program or mandate to identify and specify the funding to pay for it. The provisions of this amendment could be applied to initiatives that would reduce taxes, given that such measures, Proposition 13, for example, would result in a “net increase” in costs to state and local governments by increasing what are called “tax expenditures” which are actually tax relief for taxpayers.

Senate Bill 448 would require that people who collect signatures wear a “scarlet-letter-type” sign around their neck announcing whether they are a paid signature-gatherer or a volunteer-signature gatherer, and whether they are registered to vote.

Other bills in circulation include one that would give the Legislature the power to amend or repeal voter-approved initiatives after four years.

One measure, Senate Bill 168, which already reached Gov. Jerry Brown’s desk, would have made it a crime for any initiative signature-gatherer to be paid by the signature, but Brown vetoed it, saying it would unfairly inhibit groups that want to qualify ballot measures by driving up their costs.

These “reform bills” seem to be aimed at what some legislators fear will be a slew of state and local ballot measures in 2012 and beyond – public pension reforms, restrictions on political fund-raising by unions, and prohibiting so-called “project labor agreements” in public works construction.

The Democrats’ drive to disable the initiative system is indicated, too, by a strange radio ad that aired recently, warning listeners that if they signed ballot measure petitions they’d run the risk of identity theft.

The sponsor is a group called Californians Against Identity Theft that is apparently financed by several construction unions worried about ballot measures that would ban project labor agreements.

I wonder what Hiram Johnson would think if he were alive today.
Kiewit Scores Huge Success on Highly Publicized ‘Carmageddon’ Job on LA’s I-405

By Carol Eaton

This summer, a Kiewit-led design-build team demonstrated the value of extensive preplanning and teamwork when it achieved an early finish on one of the most publicized bridge demolition projects in Southern California history — scoring an early completion bonus in the process.

The demolition of the southern half of the 51-year-old Mulholland Bridge on the I-405 through the Sepulveda Pass in Los Angeles required the weekend shutdown of one of the region’s busiest freeways. Dubbed “Carmageddon,” it was widely feared that the planned 53-hour closure of a 10-mile stretch of this freeway, which sees an estimated 500,000 vehicles on a typical summer weekend, would produce a traffic nightmare of epic proportions.

Local politicians, celebrities including Erik Estrada, Ashton Kutcher and Tom Hanks, along with public safety and transportation officials participated in a media blitz in the weeks leading up to the closure, urging residents to stay home or simply stay away from the area to avoid potential gridlock.

In the end, “Carmageddon” turned out to be a story that didn’t live up to its name. Instead, thanks to the well-orchestrated publicity campaign, freeway traffic was much lighter than usual around the area all weekend with no major problems reported. The normally gridlocked Sepulveda Boulevard looked like a virtual “ghost town” just prior to the beginning of the closure on Friday afternoon, according to Dan Kulka, Community Relations Manager for Kiewit Infrastructure West Co.

“It was eerie – you couldn’t see a car in either direction at about 6:30 p.m. on Friday,” he notes. “There was just this enormous cooperation from the locals, the city of Los Angeles and everyone else involved.” That cooperation facilitated the smooth shutdown of the entire section of the freeway by midnight on July 15th, and then work began in earnest to get the job done as quickly as possible.

Kulka credits a strong team effort with the resounding success of the Mulholland Bridge demolition, a key milestone in the I-405 Sepulveda Pass Improvements Project. Kiewit holds a $721 million design-build contract for the project whose total cost is estimated at just over $1 billion, making it the largest current design-build highway project underway in California. The project scope also includes 20 ramp improvements; eight new ramp structures; widening 12 bridges; construction of three new bridges; and 18 miles of retaining walls and sound walls.

In addition to Kiewit Infrastructure West Co. as the lead design-build contractor, key team members and stakeholders include:

- Lead designer, HNTB, who played an instrumental role developing the traffic management plan for the Mulholland Bridge demolition;
- Geotechnical engineer Kleinfelder, Inc.;
- Demolition contractor Penhall Company, who spent extensive time preplanning the demolition that it then executed flawlessly over the weekend;
- Subcontractor Statewide Traffic Control Services, which planned and put in place the traffic control systems;
- Owner Caltrans and the Los Angeles County Metropolitan Transportation Authority who partnered on the design-build job, working along with the City of Los Angeles for months to hammer out details of the weekend closure and to alert
the public of the potential impacts; and

Various critical service departments
for the City, including the fire and police
departments, among others.

The goal from the outset was not just to
come down. Crews then moved in to perform
the actual demolition using diamond saws,
jackhammers and hoe rams to tear down the
south half of the bridge piece by piece.

With work proceeding well ahead of sched-
ule, the Kiewit team realized by midnight
Saturday night that they were within reach
of opening the freeway by noon on Sunday,
which would save a whole shift in city emerg-
ency services labor costs and thus net the City
of Los Angeles some $700,000 in savings. The
business decision was made to utilize a pre-
approved contingency plan to lower two of the
three bridge columns onto a slope, where they
would be demolished at a later time, in order
to shorten the time that the entire freeway was
shut down. Kiewit received a $300,000 bonus
for early completion (some of which went to
the deferred demolition of the columns.)

Under the intense scrutiny of dozens of
representatives of the local, national and
even international media, some of whom had
cameras trained on the project throughout
the entire closure, the freeway was reopened
around 11:30 a.m. on Sunday morning, July
17th, almost a full day early. As fire engines
spilled onto the freeway with horns sound-
ing to mark the re-opening, and California
Highway Patrol escorted the first cars onto
the reopened freeway, the overall mood of the
crowd gathered was exuberant, Kulka says.

"People were thrilled; it was like winning
the World Cup," he says. "It was just really fun
to be there and experience the reopening."

Kiewit’s work continues on the I-405 Sep-
ulveda Pass Improvements Project, of which
the Mulholland Bridge demolition is just
one component. A second weekend closure
will be required next summer to demolish
the north side of the bridge. Overall, the
project will add a 10-mile northbound HOV
lane and improve supporting infrastructure
such as ramps, bridges and sound walls on
the San Diego Fwy. (I-405), while widening
lanes from the Santa Monica Fwy. (I-10) to
the Ventura Fwy. (US-101). Underway since
June 2009, the project is slated for final com-
pletion in December of 2013. ☃️
Q&A: Changes On Horizon for Insurance & Surety Markets
By Carol Eaton

For California contractors trying to survive and even thrive in a down economy, the ability to manage risk and maintain strong business relationships can often spell the difference between long-term business success and failure.

Nowhere is that more true than when it comes to the relationship contractors build with their insurance and surety providers. Some contractors have been able to stave off rate increases through strong, open and long-term business relationships with these providers.

And like the rest of the business community, construction insurance & surety providers themselves have been strongly impacted by economic forces and trends in recent years that have reshaped their bottom lines.

The California Constructor recently talked with Cathy Skeen, Dave Garese and Brooke Skeen of Excel Bonds and Insurance Services, Inc., Sacramento – long-time and active members of AGC of California – about what they see as some of the trends and changes ahead for the California insurance and surety markets and the customers they serve.

California Constructor: There have been recent reports about the changes in how the Workers Compensation Insurance Rating Bureau (WCIRB) will express or report their pure premium rates in the year ahead. Some reports have described this as a way for the WCIRB to make what amounts to rate increases appear more “palatable” to businesses. So what is really going on here, and what can contractors expect in terms of the workers’ comp rates in the year ahead?

Cathy Skeen: The bottom line is that workers’ comp is most likely going to go up on January 1, 2012. Some estimates are that income. So for every point of investment ratios, in their now nonexistent investment income. So for every point of investment income that they don’t earn, they have to write to an even lower loss ratio.

Cathy Skeen: One of main things that have reshaped their bottom lines.

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Cathy Skeen: One of main things that have reshaped their bottom lines. State Fund has not been really competitive in this soft market; if they do implement this tiered rating program, we expect them to become much more competitive.

California Constructor: What are the main drivers behind the workers’ comp rates?

Dave Garese: One of main things that continue to drive workers’ comp cost up is rising medical costs. Workers’ comp is the last place where medical costs are still undiscounted. So a lot of medical insurance carriers and property & casualty insurance carriers have tried to subrogate or push some of their cost to workers’ comp policies. I heard a story recently about one medical insurance carrier for which one full point of their three point margin was derived from their ability to transfer risk to workers’ comp carriers.

California Constructor: Bottom line, what does this mean to California contractors?

Cathy Skeen: We do think that they should be advised to anticipate an increase. We also recommend they have their agent start working well before their renewal date to either lock in rates with their incumbent carrier, or have their broker start marketing their account.

California Constructor: What are some of the other factors and trends influencing the insurance market today?

Dave Garese: Currently we have both a soft market and a downturn in the economy, the first time these two factors have coincided in about 60 years. While there have been a lot of things driving this, we do know that at some point in time, rates are going to go up on all lines. The other thing is that insurance companies historically have made up for their rating mistakes, or their loss ratios, in their now nonexistent investment income. So for every point of investment income that they don’t earn, they have to write to an even lower loss ratio.

California Constructor: What advice would you give to contractors trying to navigate the current market and to guard against the inevitable price increases they will face in the future as the market comes back?

Cathy Skeen: One thing we always want to stress is that relationships are paramount. If you’ve been with a carrier for a long time – and even if you’ve got some blemishes, or some claims – the longer you’ve been with your carrier, the more apt they are to write your insurance without any increases. Rather than going out and marketing your firm with another broker, if you have a good relationship with your current broker, continue that philosophy. Talk with your broker about strategy as far as how he/she is going to market your account for the upcoming renewal.

California Constructor: Exactly when are you expecting to see the market turn around and some of these changes or price increases to take place?

Dave Garese: Based on what we are hearing from some of the insurance companies, as soon as the market can bear it, we think prices will go up pretty quickly.

Brooke Skeen: We should point out though that as of right now, pricing is flat. A quarterly report that just came in from the Risk and Insurance Management Society, Inc. (RIMS) for pricing of four com-
mercial lines (general liability, property, workers’ comp and directors and officers insurance), shows everything as still pretty stagnant across the board.

*California Constructor:* What about the surety bond markets - what is the outlook for those markets in the near future?

*Dave Garese:* Historically, sureties don’t have losses until the economy starts to turn around. Contractors will bid work at bottom of the trough; they begin to perform the work at the bottom of the trough; and then as the economy turns up, the contractor is faced with increased labor and materials costs that they hadn’t accounted for.

Sureties are now starting to carefully look at all accounts. Last year if you had losses as a company because you didn’t have enough work, you would get a pass on it. But this year they are looking more at the fundamentals. So I wouldn’t say the surety market is soft – it is not – but they are following fundamentals very carefully when they underwrite. If your fundamentals as a contractor aren’t particularly good, it could get even more difficult to get surety credit.

Again, the big issue here is relationships. By nurturing a long-term relationship with a surety that really knows your operation, they become your advocate and you’re likely to get a lot more surety credit than someone that is a new customer to them.

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**AGC Wins Victory with FASB’s Approval of New Standard**

The Financial Accounting Standards Board (FASB) on July 27 announced its approval of a new financial disclosure standard for employers with multi-employer pension plans. Through the successful, painstaking efforts of the AGC of America’s Tax and Fiscal Affairs Committee and the Construction Industry FASB Coalition of which AGC is a member, they were successful in getting the most dangerous provisions of the originally proposed standard removed, including disclosures about withdrawal liability and retiree health and welfare benefits (though the latter might be addressed in a future initiative).

The new disclosures will include:
- The expiration date(s) of collective bargaining agreement(s) and any minimum funding arrangements.
- The most recent certified funded status of the plan, as determined by the plan’s “zone status” under the Pension Protection Act of 2006. If the “zone status” is not available, an employer will be required to disclose whether the plan is: less than 65 percent funded, between 65 percent and 80 percent funded, or greater than 80 percent funded.
- A description of the nature and effect of any changes affecting comparability for each period in which a statement of income is presented.

FASB expects that the revisions will be finalized in September. For public entities, the enhanced disclosures will be required in fiscal years ending after December 15, 2011. For nonpublic entities, the enhanced disclosures will be required in fiscal years ending after December 15, 2012.
Rosendin Electric Carves Major Niche in Fast Growing Solar Power Market

By Carol Eaton

Fueled by federal and state incentives and subsidies, individual state mandates requiring utilities to increase their renewable energy portfolio, and growing consumer demand for cleaner and more sustainable long-term energy solutions, the solar power market has been likened to a modern day “gold rush” that has attracted widespread interest and experienced dramatic growth in recent years.

A diverse array of companies have jumped at the opportunity to capture a piece of this niche market that has reported up to 50% per annum increases over the last five years or so – one of the few growth areas in what has otherwise been a dismally performing construction economy.

But like so many who flocked to California’s real gold rush in the mid-1800’s hoping to strike it rich – only to end up worse off than they were before – some firms delving into the solar market may not fully understand the financial intricacies and challenges these projects can present. Inexperienced contractors who enter the market unprepared are more likely to encounter a land mine of financial risks and hazards than a pot of gold.

One company that has been highly successful establishing a strong foothold in the solar marketplace is AGC of California member Rosendin Electric, a 92-year-old firm ranked as the 12th largest specialty contractor in the U.S. in 2010 by Engineering News-Record. (Top 600 Specialty Contractors, October 11, 2010 issue.) Headquartered in San Jose, CA, with eight branch offices in six states employing more than 2,500 people nationwide, Rosendin Electric has grown to become one of the nation’s largest turnkey solar project constructors.

Building a Base in Solar

Beginning nearly three years ago when it acquired key personnel from a small California start-up that specialized in the solar power industry, Rosendin Electric has taken a slow and deliberate approach to building its expertise, reputation and business portfolio in the solar renewable energy and PV market sector. And the results have been impressive. This year, the company expects to complete approximately $100 million in solar projects – double the $50 million it tallied in solar projects in 2010, and a quantum leap from the $3 million in solar work it completed in 2009.

In 2012, Rosendin Electric forecasts its solar project sector to more than double to approximately $225 million, according to Duncan Frederick, Director of Solar Operations.

Frederick came to the firm along with four other key individuals in early 2009. Rosendin Electric’s solid financial footing, stellar reputation and dominance in a variety of vertical construction markets proved a perfect complement to the experience and know-how the solar professionals brought with them, galvanizing the company’s robust entry into the solar arena.

“We spent a good amount of time early on really researching the financial side of the equation, getting to know who the equity players were, who the banks were and what they are looking for in terms of “bankable elements” of a solar solution,” comments Frederick.

Getting Past the Solar “Gatekeepers”

Rosendin Electric quickly mastered what Frederick calls the two key “gatekeepers” to a successful solar project: knowing how to clear the EPC (engineering, procurement and construction) “hurdle rate” and how to mitigate the potential risk to project financers. Clearing the EPC hurdle rate involves a thorough study of various factors and then coming up with an overall yield to cost ratio for a solar project that meets a minimum financial threshold.

To date, the majority of the Rosendin Electric’s solar work has been in the public sector “HUGS” market – hospitals, university, government facilities and schools – representing owners who are traditionally short on capital but are interested in securing a long-term (20 to 25 year) power purchase agreement (PPA). The PPA locks in
the price a user will pay for power for a set timeframe, controlling the escalating annual price increases they would be subject to with traditional power purchase options.

“That has really been the cornerstone of our strategy and approach in the market – not just being another contractor, but being a value added partner,” Frederick says. “We go to these developers and say look, we can provide you with everything you need from an EPC and finance solutions standpoint, provided you go get the PPA and make sure the site is secured and entitled.”

Just a few examples of Rosendin Electric’s many recent and current solar projects include: the 5 MW Sunset reservoir project in San Francisco; a $50 million, 9.6 MW solar installation spanning 10 schools in Antelope Valley Union High School District in Southern California (the state’s largest school solar project to date); the landmark 1.2 MW solar photovoltaic system at the Mineta San Jose International Airport in San Jose named ConRAC; and a first of its kind, high profile 5MW solar teaching project underway at Arizona Western College where Rosendin Electric is installing five different solar technologies in a single location, enabling researchers to perform a wide range of comparative research on site. (http://www.azwestern.edu/Marketing_and_PR/solar.html)

Rapid Growth in U.S. Solar Market

In the relatively short time since the solar market has taken off, the U.S. has grown to become the third largest solar installer in the world (behind Germany and Italy). According to recent reports from global market research firm Solarbuzz, and as cited in industry publication CleanTechnica, the U.S. solar market will double in 2011 and it projects the market could rise as high as 6.4 GW by 2015 depending on market conditions. (http://cleantechnica.com/2011/08/08/us-solar-pv-to-double-in-2011-grow-47-a-year-to-2015/ ) That growth has been driven in part by a 50 percent drop in the price of photovoltaic modules (the main component in many solar installations) over the last two years. According to the April 2011 edition of the United States Deal Tracker, a publication Solarbuzz, the solar PV project order backlog in the U.S. has now soared past 12 GW.

State and federal subsidies and incentives have been a major driver of the growth in the U.S. solar market, similar to the huge growth that preceded it in the European solar marketplace in countries including Germany, Italy and Spain. The rebates, incentives and “feed-in tariffs” are designed to bring the price of solar on a more level playing field with traditional energy sources.

“The idea behind this is that as the industry grows to a certain size, product and installation economies of scale will allow for significant decreases in costs so that these incentives will no longer be necessary to sustain the business, as solar renewable power can now compete “apples to apples” against traditional non-renewable power resources,” Frederick says. “The good news is that the strategy is working. Over the past two years alone, we have witnessed the cost of solar in
stallation drop by close to 25%, and we are now approaching retail parity with traditional, non-renewable energy sources.”

**Competition Increasing**

Hand in hand with the growth in the amount of solar projects now underway or planned has been the resulting increase in the number of firms looking to gain market share. “Our challenge is to constantly reinvent ourselves so that we stay a step ahead of new entrants in the market,” Frederick says.

He points out that the solar market is not an easy one to quickly jump into as a contractor, however. “It takes time to establish relationships with the financial community and the developer community to where they see you as a credible player. It’s not something you just say one day, ‘I’m going to hang my shingle out there and let everyone know I’m an EPC player’ and you are immediately successful at it.”

The influx of potential developers has been equally frenzied. “It’s been kind of a gold rush when it comes to people running out there to secure land sites that might be good candidates for solar farms,” Frederick says. “We get approached 10 times a week from individuals who say, ‘hey I’ve got 100 acres over here that looks to be a prime candidate for a solar farm.’ Unfortunately, a lot of those so called developers don’t understand what it takes to get a project qualified, number one, and then certainly not the most difficult hurdle, which is to get it financed.”

**Expanding Rebates Impact Market Growth**

Solar project financing may grow even more difficult in months to come as many of the federal and state subsidies for solar projects are on tap to be reduced or disappear altogether. One of the key federal incentive programs slated to expire at the end of this year is Tax Grant 1603, a program which allows developers to receive a cash grant of 30% of the project cost to help close the gap between solar cost of energy and traditional cost of energy. Rosendin Electric has joined a chorus of others in the industry who are lobbying vigorously for a one year extension to this program, with little success to date.

“If the grant does expire at year’s end, we will most likely see a significant reduction in this industry’s growth due to the anemic tax equity market,” Frederick points out. “Terminating the 1603 Grant at this point in our solar industry time-line will result in a significant reduction in the current growth rate of the industry until the economy returns.”

Tax Grant 1603 was developed as a temporary derivative of the primary federal incentive, the Federal Renewable Investment Tax Credit program (ITC), which enables companies to offset tax payments by utilizing the tax credits and accelerated depreciation of the system. Slated to stay intact until 2016, the ITC program “is an excellent incentive when the economy is strong and companies have strong tax equity appetite, but with the recent recession, the tax equity appetite has significantly declined,” says Frederick.

At the state level, California launched its own solar incentive program, dubbed the California Solar Initiative (CSI), in January of 2007. Overseen by the California Public Utilities Commission, this solar rebate program provides upfront incentives for solar systems installed on existing residential homes, as well as existing and new commercial, industrial, government, non-profit, and agricultural properties. The CSI program helps support the requirement, signed into law by Gov. Brown this April, that all of California’s utilities obtain 33 percent of the electricity they sell from renewable sources by the year 2020. This makes California the most aggressive state in the nation when it comes to promoting renewable energy standards.

While the CSI program initially offered very high incentive rates, as solar projects have become more prevalent, remaining CSI incentives have declined sharply – dropping even faster than the rapidly declining EPC cost of solar projects resulting in a significant decrease in distributed generation projects. (These are solar projects that are designed to offset the users’ local power loads through on-site power generation.)

Meanwhile, on the international scene the marketplace has seen a sharp decline in the last six months due to a major decrease...
in the feed-in tariffs. “Everyone is scrambling for market positioning right now,” Frederick notes. “You have this worldwide production engine that is supplying at a rate of 10 GW annually, and all of a sudden a third of that [subsidy] has gone away.”

Solar Farm Projects Pick up Speed

While the distributed generation solar market is currently lagging, however, the utility grade solar market, better known as solar farms, is now picking up the slack. These projects involving construction of small to large solar farms require the developer to secure a PPA with either an investor owned utility (IOU) or municipal owned utility (MOU) who then sells power back to them for distribution to its customers.

Among the high profile solar farm projects in the news lately have been the 370 MW Ivanpah Electric Generating System solar farm project now underway in San Bernardino County, and the 550 MW Topaz Solar Farm Project that has been planned and approved for the Carrizo Plains in San Luis Obispo County (the subject of an AGC Tri-Counties District meeting this July).

Rosendin Electric expects its own portion of solar farm projects to far outweigh its distributed generation projects within the next two years or so by a projected 80/20 ratio. The company currently has in excess of 130 megawatts of solar farm work now under contract, with more on the horizon.

“Solar farms are the real growth area,” Frederick comments. “When we sit down and see how we want to build our business, we are focusing on the larger scale projects, not only in the U.S. but also in Canada, Puerto Rico, Guam and potentially other areas outside of the U.S.”

Squeezing Down Cost and Improving System Yield

By the end of 2012, Frederick says solar work will account for some 20 to 25% of the company’s overall project mix. For Rosendin Electric, the long-term key to success in the market is to continue to be a value added builder and to diversify its procurement capabilities and system design strategies. This includes keeping a close hand on the supply chain and establishing direct to manufacturer relationships with the top players for every system component. “We’ve spent a lot of time with suppliers across the US, in China and wherever else we have to go to find the best quality and most innovative solutions for the lowest cost,” he concludes. “We believe as long as we’re doing that, we will continue contributing uniquely to the overall market by delivering the lowest cost of solar power for our developer and banking partners.”
Joint Ventures and Contractual Relationships

By Mark Reynosa, Field Services Manager, Northern California Industrial Relations

At times signatory employers will make a business decision to enter into a joint venture with another employer or employers for bidding and completing a construction project. Whatever the reasons for entering into the joint venture, it is important to consider how the relationship could impact your contractual relationship with the unions that you are signatory to as well as to include labor relations in your risk management plan.

There are various types of joint ventures. The most common is a “line item” joint venture where the parties agree to divide the risk and responsibility of lined items (i.e. scopes of work) for the total scope of the contracted project. Another joint venture is a “true” joint venture where the parties agree to establish a new employer entity, which is separate from their own with a new contractor license number. This new employer entity will be responsible for the total scope of the contracted project and will have a single set of books and records. A line item joint venture does not have a single set of books and records.

In labor relations terms, line item joint ventures are defined as joint ventures where signatory employers do not have to re-establish their contractual relationships with the union to which they are already signed and performing work under. The employer can continue to work and report fringe benefit contributions to the trust funds without having to establish a new contractual relationship.

On the other hand, in the “true” joint venture the newly created employer entity would have to establish a new contractual relationship with the union by signing a labor agreement. In other words, a true joint venture entity would not have access to a labor agreement or be able to report fringe benefits for its employees under this new entity without signing a labor agreement even if they are signed individually. (Please note that a new true joint venture entity could become signatory to a labor agreement without having to directly sign a master labor agreement, if it agrees to sign a letter of assent via a project labor agreement.)

Besides contractual relationships, there are other important labor relations questions to consider when creating a joint venture partnership. For example, how and who will communicate labor relations matters within the joint venture? Who will make craft work assignments and how will jurisdictional disputes be handled? Who will handle grievances for the joint venture and how? Who will be responsible for pre-

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Managing Risk By Building a Lasting Safety Culture

By Gerry McEwen

With a potential for a loss present in every company, wouldn’t you want to remove that risk at any cost? Whether that risk comes from inadequate training, uncertain exposures, unknown hazards, lack of accountability for one’s job, or insufficient investigation processes, you are responsible to protect your employees from hazards, accidents and injuries in the workplace. Do you have a lasting safety culture to assist you?

There are numerous ways to accomplish this goal. Inspections in the workplace, adequate training, training new hires prior to allowing them to start work, engineering controls, administrative controls, correcting the hazard(s) promptly, proper re-training or discipline of employees, and holding your managers, supervisors and employees accountable for their actions and job responsibilities are just some of the methods that can be used. It is also important to implement a proper accident investigation procedure to determine the true root cause of the incident.

INDUSTRIAL RELATIONS

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job conferences, record keeping, advisory notices, and other union related matters for the joint venture? As you can see, it is important for the parties to review and address these questions. Including labor relations into the risk management plan of the joint venture is a means to this end. Having answered these questions before hand would allow the joint venture to respond quickly and efficiently to labor relations matters that arise on the project and thereby minimize exposure.

For more information about AGC’s labor relations representation services, please visit our website at www.agc-ca.org>memberservices>industrial.

Those are some sure fire ways to help you build a lasting safety culture, but it is not a safety function, it is a project management function to build that culture. Your responsible safety person cannot do this alone; you all need to join together to assess, train, teach, educate, assign and then audit.

Keep in mind that all safety and risk management programs are only as effective as owners and upper management allow them to be.

Ex Mod Success Stories

Here are a few examples showing some of Garrett/Mosier Insurance Service, Inc.’s clients that bought into building a safety culture, not just having written programs, but working written programs, internal audits and workers’ compensation school packaged together to teach and educate employees at all levels.

• A plastics injections company brought their Ex Mod down from 193% in 2003 to 90% in 2010, showing a premium decrease of 85%.

• A citrus packing and handling company brought their Ex Mod down from 135% in 2002 to 77% in 2009, resulting in a premium decrease of 78%.

• A construction company brought their Ex Mod down from 125% in 2001 to 69% in 2009 premium with a resulting premium decrease of 71%.

• A masonry company brought their Ex Mod down from 130% in 2001 to 80% in 2009 with a resulting premium decrease of 58%.

• A landscape, grading, concrete company brought their Ex Mod down from 227% in 2005 to 102% in 2010, with a premium decrease of 62%.

Gerry McEwen is with Garrett/Mosier Insurance Service, Inc., Irvine. She has 25 years’ experience in the field of occupational safety and health and claims management with private companies and the insurance brokerage industry. She can be reached at (949) 559-6700 or gerrym@garrett-mosier.com.
Partnership Of AGC Foundation, ACE Mentor Program of CA Garners Strong Support

Earlier this year, the AGC Construction Education Foundation (AGC CEF) announced an official partnership with the ACE Mentor Program in California (ACE). As part of the partnership, AGC CEF and ACE are working together in a number of ways to address the full pipeline of workforce regeneration, from high school through training and/or post-secondary education.

To kick off this partnership, the Foundation and The ACE Mentor Program California held a joint Mixer & Fundraiser event in Sacramento on July 7, hosted by the AGC of CA Delta-Sierra District, which was very well attended by AGC members and other industry supporters. In addition to the rooftop venue, food and drinks, participants enjoyed inspiring presentations from construction education programs at local high schools, faculty and students from both CSU Chico and Sacramento AGC Student Chapters, and previous AGC Scholarship recipient, Jose Buenrostro.

Further solidifying the partnership, the Foundation and AGC of CA members pitched in to support the first-ever summer camp hosted by the ACE Mentor Program of CA in July 2011. The Summer Camp was attended by 15 high school juniors from across California who are interested in pursuing a career in architecture, construction and/or engineering. At the camp, the students participated in a number of field trips to job sites and training facilities and were guided through a step-by-step design-build process culminating in four unique structures: cat condos, which were donated to a local animal rescue agency. Showing their support, Teichert Construction gave a $5,000 grant to help fund the costs of the camp, while Granite Construction hosted the students on tour of their new project at the Sacramento Rail Yard. Unger Construction also got involved by providing staff and transportation for the design-build projects, and the AGC Education Foundation assisted in the planning, hosted an ACE Jeopardy game for the students and did an outreach to the AGC Student Chapters at CSU Sacramento and CSU Chico to recruit/provide camp counselors.

As 2011 wraps up, AGC members and industry partners should be on the lookout for additional AGC CEF/ACE joint ventures including a scholarship that will be administered by the AGC CEF to ACE Mentor students. For more information on the partnership and its activities or to make a contribution, please contact Erin Volk, Director at volke@agc-ca.org or 916-371-2422.

AGC Foundation Sponsored Career Days to Reach 15,000 Students in 2011

As part of realizing their mission to promote construction as a viable career option, each year, the AGC of California Construction Education Foundation sponsors four Construction Career Awareness Day (CCAD) events in the Bay Area, Fresno, Los Angeles and Sacramento. Due to successful partnerships and hard-working planning teams, over 15,000 California high school students will attend Foundation sponsored CCAD events in 2011 – the highest number of students to participate in a single year.

In April 2011, two successful CCAD events took place in Los Angeles and Fresno, reaching over 2,200 students. Coming up in 2011 are two more CCAD events in Sacramento and the Bay Area.

In Sacramento, the Foundation formed a partnership with LEED (Linking Education and Economic Development), an employer-education partnership serving the greater Sacramento region to combine the 2011 Sacramento Construction Career Awareness Day with LEED’s much larger career exploration event, CareerGPS 2011. CareerGPS/Sacramento CCAD will take place on October 13-14, 2011 and is shaping up to be the largest outreach event that the Education Foundation has ever been involved in, with 10,000 high school students registered to attend.

Erin Volk, Director of the AGC Construction Education Foundation explains: “This unique partnership with LEED will allow us and those exhibiting at the event to reach roughly five times the number of students we would reach at one stand-alone CCAD event in Sacramento. The Foundation Board and staff are incredibly excited by this opportunity and encourage local AGC members and industry partners to join us at CareerGPS.”

The 2011 Bay Area CCAD event will be held on November 8, 2011 at the Alameda Fairgrounds in Pleasanton, CA. In an amazing show of support for the Foundation’s Construction Career Awareness Program, Skanska USA Civil West has signed up as a host sponsor and made a $15,000 contribution which will go towards the costs of the event. The Bay Area CCAD will feature an indoor exhibit hall, an outdoor equipment area, workshops, hands-on activities and also student projects from the ACE Mentor Program of CA.

For more information on how your company can participate in the 2011 CareerGPS event in Sacramento or the Bay Area CCAD event, please contact Sophie You at yous@agc-ca.org or 916-371-2422.
Strong Turnout at California Construction Expo 2011
Sixth Annual Event Focuses on ‘California Moving Forward’

By Sophia Taft

Nearly 2,000 people attended the 6th Annual California Construction Expo on August 11, 2011 at the Pasadena Convention Center. With a theme of “California Moving Forward,” the event proved to be yet another successful gathering of contractors, designers, construction professionals, suppliers, and construction workers who had the opportunity to meet and network with host agencies including the Los Angeles Unified School District (LAUSD), The Metropolitan Water District of Southern California, Los Angeles World Airports, Port of Long Beach, Department of General Services, and AGC of California. Agency officials were on hand to answer questions about upcoming projects, and small business contractors were encouraged to network with local government. As a hosting sponsor, AGC of California was proudly represented as the leading construction trade association in the state.

The exhibit hall was filled with over 140 exhibitors from throughout Southern California ranging from large and small contractors to service suppliers and vendors as well as state universities such as CSU Northridge, all of whom came out to showcase their businesses and programs.

Planned workshops focused on public works projects proposed or underway, all giving a positive outlook regarding what’s ahead for California construction. Highlights from the workshops included bidding opportunities for the $1.6 billion I-5 Widening and HOV project; the $1.7 billion Crenshaw/LAX Transit Corridor Project; ongoing Metro capital projects that support bus and rail operations; and the much anticipated California High Speed Rail, which is slated to start construction in September 2012 beginning in the Central Valley. Guest speaker Michael Guillam, Southern California Deputy Program Director at California High-Speed Rail Authority, reported that federal and state government have already allocated $6.3 billion for the initial construction; however, funding for the project in its entirety is still being determined, and agency officials have strongly advocated for federal funding and the need to attract private participation in order to get the project through completion.

Small contractors also benefited from attending the expo. Eric Mandel, Chief of the Office of Small Business and Disabled Veteran Business Enterprise Services at the California Department of General Services, led a panel discussion on the advantages and benefits to small business certification and local bidding preferences that the City of Pasadena offers. Panel members provided tips on how to succeed as a small business, including expanding business opportunities with local government, building relationships and learning about the different agencies, being persistent in a competitive market, and partnering with other small businesses.

The Construction Expo concluded with a luncheon featuring keynote speaker Doug Failing, Executive Director of Highway Projects at the Metropolitan Transit Authority, who addressed the future of California construction. He emphasized that California is moving forward to improve the state’s aging infrastructure and towards a better and more sustainable state.

Mark your calendars and make sure to attend next year’s California Construction Expo scheduled August 2, 2012 at the Pasadena Convention Center.

2012 Constructor Awards On the Horizon

The AGC of California Constructor Awards honor California’s best projects each year for their skill, unique undertakings and ability to address the most difficult challenges contractors encounter. Entry forms for the 2012 Constructor Awards will be available in October 2011, and the deadline to submit will be January 6, 2012.

AGC is inviting members to review projects their projects to be completed in 2011 and plan ahead to submit entries for those projects that are Constructor Award worthy. Following is a checklist to help members complete a successful entry:

• Take Great Photos – The entry will need 15 or more photos highlighting the different stages of construction on the project.
• Plan Your Display Board - The display should be two 20”x30” 3/16 inch thick hinged foam boards consisting of photographs and information showcasing the project.
• Outline Your Narrative - Get started on a five page written narrative description of the project and why it should win.
• Do Your Homework - Visit the Constructor Awards webpage at http://www.agc-ca.org/about.aspx?id=56 for more information.

The 2012 Awards Banquet & Constructor Awards will be held on April 14, 2012 at The Palace Hotel in San Francisco. Please contact Nicole LaMont at (916) 371-2422 or lamont@agc-ca.org with any questions.
Deborah Ballati Elected President of ACCL

Deborah S. Ballati, a partner in AGC member firm, Farella Braun & Martel’s Construction and Insurance Coverage Practice Groups, has been elected as the first female President of the American College of Construction Lawyers (ACCL). She has been a Fellow with the ACCL since 1997.

Ballati’s top leadership role affords her the opportunity to have a significant impact on the organization and on construction law as a practice. During her tenure as President-Elect and President, she is leading the ACCL’s efforts to plan and implement the third symposium to be put on in conjunction with a leading university in the fall of 2012; the symposium will focus on significant issues which will shape the global construction industry over the next 10 years.

AGC members and guests are encouraged to attend AGC of California’s 2011 Fall Conference and meetings, to be held October 26-28, at the Hyatt Grand Champions, Indian Wells. The conference includes committee meetings, Division and State Boards of Directors meetings, the association’s annual meeting, golf & croquet tournaments, events for spouses/guests, entertainment, and most importantly, excellent networking opportunities.

Several changes have been made to this year’s conference to make it more appealing than ever. The golf and croquet tournaments will be taking place on Wednesday, October 26, followed by a Welcome Reception that evening. The business meetings will be taking place on Thursday, October 27 and Friday, October 28. All the meetings offer round-table environments for all members interested in the most critical Building, Highway-Heavy, and Marine/Utility construction issues. Thursday evening will offer attendees an opportunity to network with new and old acquaintances out by the pool at AGC’s Beach Party Reception. There will be plenty of heavy hors d’oeuvres and beverages for all. The big event will be on the evening of Friday, October 28 with AGC’s “Halloween Spooktacular” Costume Party. Be sure to come dressed in your favorite Halloween costume!

Make your marketing dollars work for you this year and take advantage of the many Fall Conference sponsorship opportunities now available by calling David Jenkins, AGC Director, Business Development, at (626) 608-5800 or email jenkinsd@agc-ca.org, or Nicole LaMont, Events Services Coordinator, at (916) 371-2422 or lamontn@agc-ca.org.

Register for the Fall Conference today, go to www.agc-ca.org/fallconference.

AGC has gone mobile! For up-to-date conference information, visit www.eventmobi.com/agcca.

Calendar of Events

September 17
Confined Space Training Competent Person at the offices of Trench Shoring Company

September 20
Managing Construction Operations- An open forum leading to better practices at AGC Headquarters Office

September 21
Santa Clara District Barbeque Mixer at The Santa Clara Elks Lodge
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