

CALIFORNIA CONSTRUCTOR

Q&A WITH AGC SHC CHAIR
ROBERT RODRIGUEZ

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CONNECTED SAFETY TECHNOLOGY
REDUCES RISK AND STRESS

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“A lot of the same stigmas and barriers to mental health apply to both the military and construction communities. Breaking down those barriers is an essential part of a safety health manager’s role.”

– Robert Rodriguez, Bali Construction



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**6 Q&A WITH AGC SHC CHAIR
ROBERT RODRIGUEZ**

Spotlight on Safety & Mental Health in Construction

As a military veteran and now Bali Construction's Director of Safety, Robert Rodriguez discusses the importance he has placed on advocating for mental health awareness and suicide prevention during his career, and he shares what to expect from AGC's Safety & Health Council in 2026.

BY CAROL EATON

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Connected Safety Technology Reduces Risk and Stress

By adopting and incorporating safety technologies within a single platform, safety teams widen the lens on jobsite risks, enabling them to focus on improving behaviors and minimizing stress rather than just chasing data.

BY ELIZABETH TORREZ, TENNA

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LAC Supports Contractors Through Legal Insight

This collaborative body of leading construction attorneys within AGC of California work alongside AGC staff and industry leaders to help identify, analyze, and respond to legal developments affecting the industry.

BY KEVIN HANNIFAN

18-27 LEGAL ISSUES SPOTLIGHT

Cyber Insurance, Private Works Change Orders, Arbitration and More

Some of AGC of California's leading attorney members share updates and trends on key issues they are helping contractors navigate the legal realm, in this annual Legal Issues section.

Building a Safer and Stronger Construction Industry

In construction, safety is more than a requirement — it is a promise we make to every worker, every family, and every community we serve. The men and women of our industry build California's infrastructure, schools, transportation systems, and communities. Protecting them must always remain our highest priority.

Construction continues to be one of the most demanding professions in the country. While the industry represents roughly 6-7% of the U.S. workforce, it accounts for a disproportionately high share of workplace fatalities. Recent federal data shows the construction and extraction sector experiences a fatality rate of about 13 deaths per 100,000 workers, compared with roughly 3.7 per 100,000 across all occupations. These statistics are a constant reminder that safety cannot be treated as a checklist — it must be a culture that guides every project, every day.

The good news is that contractors across California have made meaningful progress in recent years. Through stronger safety training, improved jobsite planning, and the use of new technologies, many companies have significantly reduced injuries and incidents. These improvements demonstrate what is possible when contractors, labor partners, and owners work together to prioritize safety.

Mental Health Is a Pressing Industry Challenge

Today, the safety conversation must go beyond physical hazards. Mental health has emerged as one of the most pressing challenges facing the construction workforce.

Studies show the suicide rate among construction workers is among the highest of any profession. In recent years, the rate reached approximately 56 suicides per 100,000 workers, compared with about 32

Contractors across California are introducing mental health awareness programs, peer support initiatives, and employee assistance resources that help workers know they are not alone.

per 100,000 across all industries. In fact, research suggests that more construction workers may die from suicide each year than from jobsite accidents. These numbers highlight the need to address the pressures that often accompany construction work — long hours, demanding schedules, and economic uncertainty.

Our industry is beginning to confront this challenge directly. Contractors across California are introducing mental health awareness programs, peer support initiatives, and employee assistance resources that help workers know they are not alone. They are creating an environment where people feel comfortable asking for help is essential to building a stronger workforce.

Safety also intersects with another critical issue in construction today: legal

and regulatory responsibility. Contractors operate in a complex environment involving contract risk allocation, evolving labor regulations, and strict safety compliance requirements. Strong safety programs are not only the right thing to do — they reduce liability, improve project performance, and strengthen trust with employees, owners and the public.

AGC Raises Bar for Worker Protection

At AGC of California, we are committed to helping our members lead in these areas. Through safety training programs, mental health awareness initiatives, and policy advocacy, AGC of California works to ensure our industry continues to raise the bar for worker protection and responsible project delivery. The AGC of California Safety and Health Council has a strong subcommittee dedicated to the mental health/ wellness efforts.

Member engagement is critical to that effort. I encourage contractors across the state to stay involved and continue shaping the future of our industry. One upcoming opportunity is the AGC of California Legislative Day on May 5-6, 2026 in Sacramento, where industry leaders will meet with policymakers to discuss workforce development, infrastructure investment, and policies that support safe and responsible construction.

Construction has always been about building the future. By strengthening our safety culture, supporting the well-being of our workforce, and working together as an industry, we can ensure that the people who build California's communities are protected every step of the way. 🌟



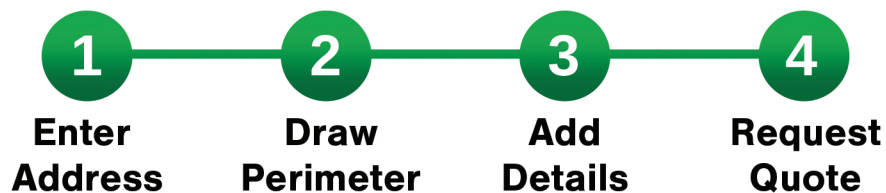
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As California faces ongoing fiscal uncertainty and increasing demands on its infrastructure systems, AGC remains focused on advancing policies that support efficient project delivery, strengthen the construction workforce, and ensure sustained investment in the state's built environment.

AGC Joint Legislative Committee Sets 2026 Advocacy Agenda

BY FELIPE FUENTES

On March 12, members of the AGC of California and AGC San Diego (AGC) gathered at Unger Construction for the organizations' long-standing Joint Legislative Committee meeting—an annual convening that brings together industry leaders to align advocacy priorities and assess the evolving policy landscape affecting California's construction industry.

The meeting remains a cornerstone of AGC's advocacy efforts, offering members direct insight from legislative advocates and staff on the most pressing issues facing the industry. With strong participation from both chapters, this year's discussion reflected both continuity in AGC's priorities and the growing complexity of California's policy environment.

Political and Fiscal Outlook

As in years past, the meeting opened with a comprehensive overview of the state's political climate and fiscal outlook. Attendees received an update on the California governor's proposed budget, which—while sizable—faces ongoing uncertainty tied to federal funding volatility, economic headwinds, and rising costs in core programs such as education and healthcare.

These pressures are compounded by the California State Legislature, which is still adapting to significant turnover, with dozens of new members navigating an increasingly complex policy environment, all while the dynamics of this year's gubernatorial election begin to take shape.

Broader political trends were also

front and center. Participants discussed affordability concerns, emerging proposals around artificial intelligence regulation, and the continued push to advance climate and housing policies. Together, these issues are expected to shape both the pace and direction of policymaking in 2026, as lawmakers attempt to balance ambitious goals with tightening fiscal constraints.

A central focus of the meeting was refining AGC's legislative agenda priorities for the year ahead.

Members reviewed a wide range of proposals affecting the construction industry, with particular attention to employer mandates, housing production, climate resiliency investments, and transportation funding. The committee also discussed recently introduced anti-trust legislation, as well as a package of workers' compensation proposals that could mitigate employer obligations.

AGC Sponsored Legislation

Equally important was the opportunity for members to weigh in on AGC-sponsored legislation—core proposals that reflect the industry's proactive approach to policy.

One of the organization's key measures, AB 2067 (Patel), would extend authorization for the use of the lease-lease-back (LLB) procurement method for school construction projects through 2032. This approach has consistently helped school districts—particularly smaller districts—deliver projects on time and within budget by enabling early collaboration between contractors,

architects, and owners. The bill preserves strong transparency and competitive bidding requirements while providing certainty for public agencies and builders.

AGC, alongside the Carpenters and Laborers, is also sponsoring SB 1065 (Wiener), which addresses apprenticeship regulations that have constrained the construction labor pool. The measure clarifies that apprentices may perform the full scope of work within their craft under the supervision of journeypersons, consistent with longstanding industry practice. By restoring this flexibility, SB 1065 would expand workforce opportunities, reduce unnecessary regulatory complexity, and support more efficient project delivery.

Another priority bill, AB 1885 (Carrillo), takes aim at outdated state contracting practices by eliminating retention withholding on public works projects where robust bonding requirements are already in place. Originally intended as a safeguard decades ago, retention now ties up hundreds of millions of dollars that could otherwise be reinvested into workforce development and project delivery. With performance and payment bonds already providing strong financial protections, AB 1885 would improve cash flow—particularly for small and mid-sized contractors—while helping accelerate infrastructure delivery across the state.

Setting Industry Priorities

The meeting concluded with a clear set of priorities heading into AGC's upcoming

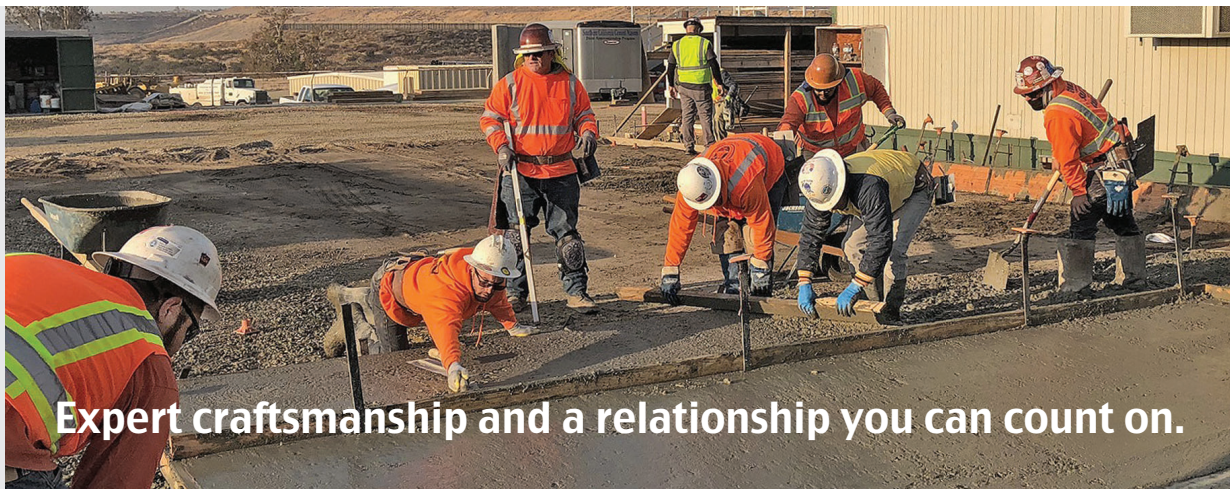
The governor's proposed budget, while sizable, faces ongoing uncertainty tied to federal funding volatility, economic headwinds, and rising costs in core programs such as education and healthcare—all compounded by a legislature still adapting to significant turnover and as this year's gubernatorial election takes shape.

Legislative Day at the California State Capitol. As California faces ongoing fiscal uncertainty and increasing demands on its infrastructure systems, AGC remains focused on advancing policies that support efficient project delivery, strengthen the construction workforce, and ensure sustained investment in the state's built environment.

Through continued engagement and advocacy, AGC and its members are well-positioned to help shape policies that not only address today's challenges but also lay the foundation for California's long-term economic growth and resilience. ☒



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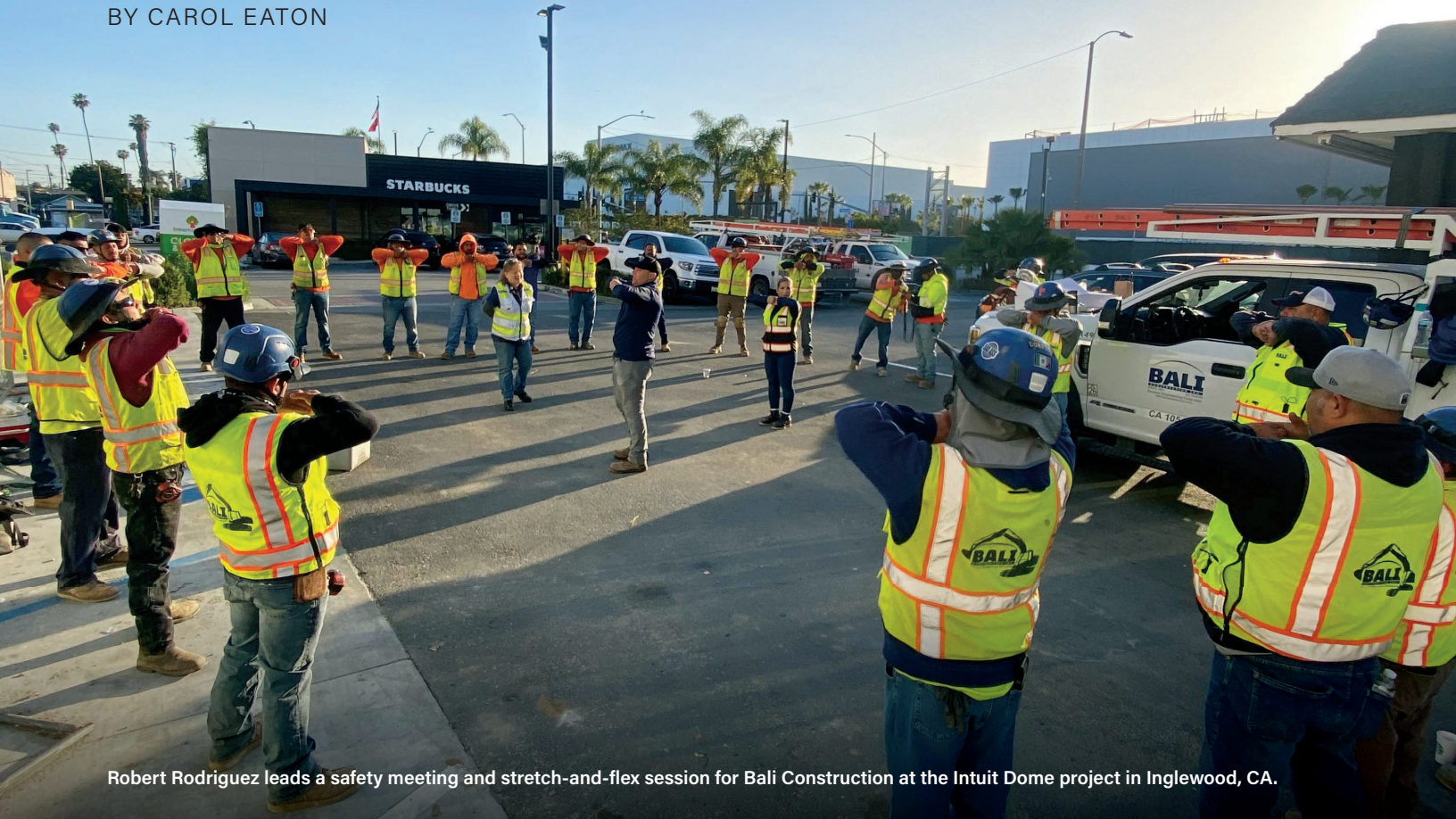
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Q&A with 2026 Safety & Health Council Chair Robert Rodriguez, Bali Construction

BY CAROL EATON



Robert Rodriguez leads a safety meeting and stretch-and-flex session for Bali Construction at the Intuit Dome project in Inglewood, CA.

During the month of May, safety and mental health take center stage in the construction industry with the convergence of two initiatives that shine a spotlight on both the physical and mental well-being and safety of the workforce that builds California and the nation.

Designated as Mental Health Awareness month, May is also the month in which Construction Safety Week is held each year. Slated for May 4-8, 2026, and

themed “All in Together - Recognize • Respond • Respect,” this year’s Construction Safety Week will bring together thousands of workers on jobsites across the country for daily tool box talks, safety and mental health standdowns, and more. These employer-sponsored initiatives are designed to bring jobsite safety, accident prevention, and mental health awareness to the forefront.

AGC of California, through its Safety and Health Council (SHC), along with

many of its industry-leading contractor members, play a key role sponsoring safety-related events, activities and initiatives that promote a culture of safety in the industry—not only during Construction Safety Week, but all year long.

For 2026 SHC Chair Robert Rodriguez, director of safety, training, and continuous improvement at Bali Construction Company, advancing construction jobsite safety and advocating for mental health awareness and suicide prevention have

been key goals throughout his more than 13-year career in construction. These goals are also central to his leadership of SHC in the year ahead.

A graduate of the U.S. Military Academy at West Point (BS, Management/Systems Engineering, 2003), Rodriguez is an Army veteran who has served three combat deployments, including two in the Middle East during the Iraq war, one from 2005-06 and the second from 2008-09.

Transitioning into the construction industry in 2013, Rodriguez brought with him not only strong operational capabilities from his military background but also firsthand experience working with veterans, some of whom suffered from combat-related PTSD and substance use disorders. That background has proven useful during his career in the construction industry, which has one of the highest rates of suicide and substance use disorders of any market sector.

California Constructor recently spoke with Rodriguez about construction industry safety issues and trends, the growing importance of mental health initiatives, and the leading goals and focus for the AGC of California Safety & Health Council in the year ahead.

California Constructor: Robert, can you share how your background in the military heightened your awareness of the issues and struggles with mental health and substance use disorders impacting the construction industry?

Robert Rodriguez: Prior to working in construction safety, I served in the aviation branch of the military and took on various roles in aviation safety and later in recruiting. I had the opportunity to serve in three combat deployments and help with Hurricane Katrina relief in Louisiana when that devastation occurred. Being a part of those operations really opened my

eyes to the importance of mental health. As most people will tell you, people do not come back the same after a combat deployment to a warzone. So mental health is very near and dear to my heart.

Many of the same stigmas and barriers to mental health apply to both the military and construction communities. People don't want to show weakness or vulnerability. Breaking down those barriers is an essential part of a safety health manager's role. Thankfully, over the last few years I've seen a consistent improvement with mental health initiatives and how construction companies are taking a more proactive role in combating mental health problems.

California Constructor: Have you experienced the loss of a colleague or coworker yourself to a mental health related issue?

Robert Rodriguez: Yes, I've had several encounters in my life where people either attempted or contemplated suicide. Several years ago at a previous company I lost a colleague who I worked with on one of my projects to a fentanyl overdose. Unfortunately, we didn't see it coming. People often don't want to show or talk about their struggles, especially in the workplace.

Having those experiences changes you as a person. It helps you realize how important it is to address these issues head-on.

California Constructor: Are you encouraged by the increasing focus the industry has placed on addressing mental health and suicide prevention in the years since you started your career in construction?

Robert Rodriguez: It is encouraging. But we are not just approaching this as a "box check." The industry is being very genuine and sincere—it's not just "let's focus on the next best thing" and then move on. It's actually being real with people. All of that is encouraging to me.



California Constructor: What led you to become actively involved on AGC of California's Safety & Health Council and to step up as Chair for 2026?

Robert Rodriguez: When Covid-19 hit, there were a lot of people suddenly interested in the Safety & Health Council, and it just exploded with participation. People wanted to know what was going on, what other companies were doing, and how we were going to face this challenge, and what was happening with the regulatory community. And so it was something that really sparked a lot of engagement and conversation.

After Covid started dying down, I saw a significant reduction in people engaging and participating in meetings. That was discouraging to me; I really wanted to see more engagement. That's one of the reasons that I stepped up and became a part of the leadership team within the Safety & Health Council—I wanted to get more people involved, to drive engagement and momentum, not just in the Council itself but in the industry as a whole.

California Constructor: To that end, what are some of the goals and initiatives planned by the Safety & Health Council in 2026?

Robert Rodriguez: One goal is just increasing the networking opportunities and engagement among our members at meetings and events. What we're trying to do is build community within the Council again, so that people know each other, can network, and pick up the phone to call each other between meetings. That is not just going to benefit their company; it's going to benefit the entire industry.

Mental health is also a topic that we will continue to address, as we discussed earlier. The fact that we're tackling this head-on in the industry is a good thing.



Robert Rodriguez pictured in Jordan during the Iraq war in 2016, serving with the California Army National Guard.

“A lot of the same stigmas and barriers to mental health apply to both the military and construction communities. People don't want to show weakness or vulnerability. Breaking down those barriers is an essential part of a safety health manager's role. Over the last few years I've seen a consistent improvement with mental health initiatives and how construction companies are taking a more proactive role in combating mental health problems.”

- ROBERT RODRIGUEZ, BALI CONSTRUCTION

What I've noticed in the Council in the seven to eight years that I've been involved is increased engagement when it comes to safety and health, and specifically, mental health initiatives. We want to make sure everyone understands that this is not going to go away. It is a challenge of epidemic proportions in our industry.

In other areas, we're going to focus heavily on safety culture and emphasize education and leadership in key industrywide initiatives. In areas such

as high-hazard activities and “stuff that can kill you” (STCKY), we're trying to help orient our members to focus on leading indicators instead of sticking with old ways of tracking safety within their companies, such as lagging indicators or incident rates. Understand the importance of a near-miss program, site inspections, observations, and other things we can do to evaluate the health of our safety culture.

We'll also explore the latest technol-

ogy and artificial intelligence (AI) tools, and identify the best tools and software to augment our safety culture and systems. And finally, we're also addressing the leadership aspects of safety, the soft skills that are needed to really elevate yourself and grow your career. Those are just a few of the topics we're addressing at our monthly meetings.

California Constructor: Speaking of AI and technology, how big a topic is that for the SHC's agenda and what impact is it having?

Robert Rodriguez: The rate at which technology is advancing is something we've never experienced before. I think leveraging those technological advancements is a key part of any safety culture and safety program in a company, whether it is using artificial intelligence tools that are integrated into that system or using GPS and other telematics info that are integrated into devices that go onto fleet vehicles or equipment.

Some camera systems, for example, not only have outward-facing cameras but also can be installed inside the truck. With that AI integration, they can detect when someone is falling asleep, if someone is distracted, or other forms of bad safety behaviors within that vehicle cab. And then they share that information with safety professionals so we can better protect our people. And that is really what it's all about.

California Constructor: The Safety & Health Council has long been known for helping members navigate regulatory or legislative changes that impact them. What are some of the latest changes you are following?

Robert Rodriguez: There are always changes in the regulatory landscape in

AGC of California, Teichert Plan May Mental Health Standdown Event

AGC of California and Teichert Construction will bring together construction workers and industry representatives from the Northern California Laborers, Operators, Carpenters, Caltrans, and more for a Mental Health Standdown and media day on May 22, 2026.

Hamilton Baiden, CEO of Youturn Health, is slated to deliver the keynote address during the Northern California event at a Teichert jobsite in Northern California.

The event, held as part of May Mental Health Awareness month, highlights the AGC of California Safety & Health Council's ongoing, multi-year effort to provide tools and resources on mental health issues that disproportionately impact the construction industry. Construction has one of the highest rates of substance use disorders and suicide among workers of any industry in the United States.

In partnership with its member contractors, AGC has worked to raise awareness of the importance of mental health support, sponsoring annual mental health media days and standdown events since hosting its first such event, keynoted by then-U.S. Secretary of Labor Marty Walsh, in 2022.

For more information, visit AGC online at www.agc-ca.org or contact AGC of California Senior Safety & Regulatory Manager Tresten Keys at keyst@agc-ca.org.

this safety field. At our last meeting we had a representative from CalOSHA Consultation go through recent changes they have made. New legislation also kicked in early this year that affects the industry, including the fact that the remaining Covid-19 requirements just sunset in February 2026. In January 2026, there were changes in the regulations governing training records and how those are supposed to be maintained within organizations. Staying on top of all those things is important for all of us.

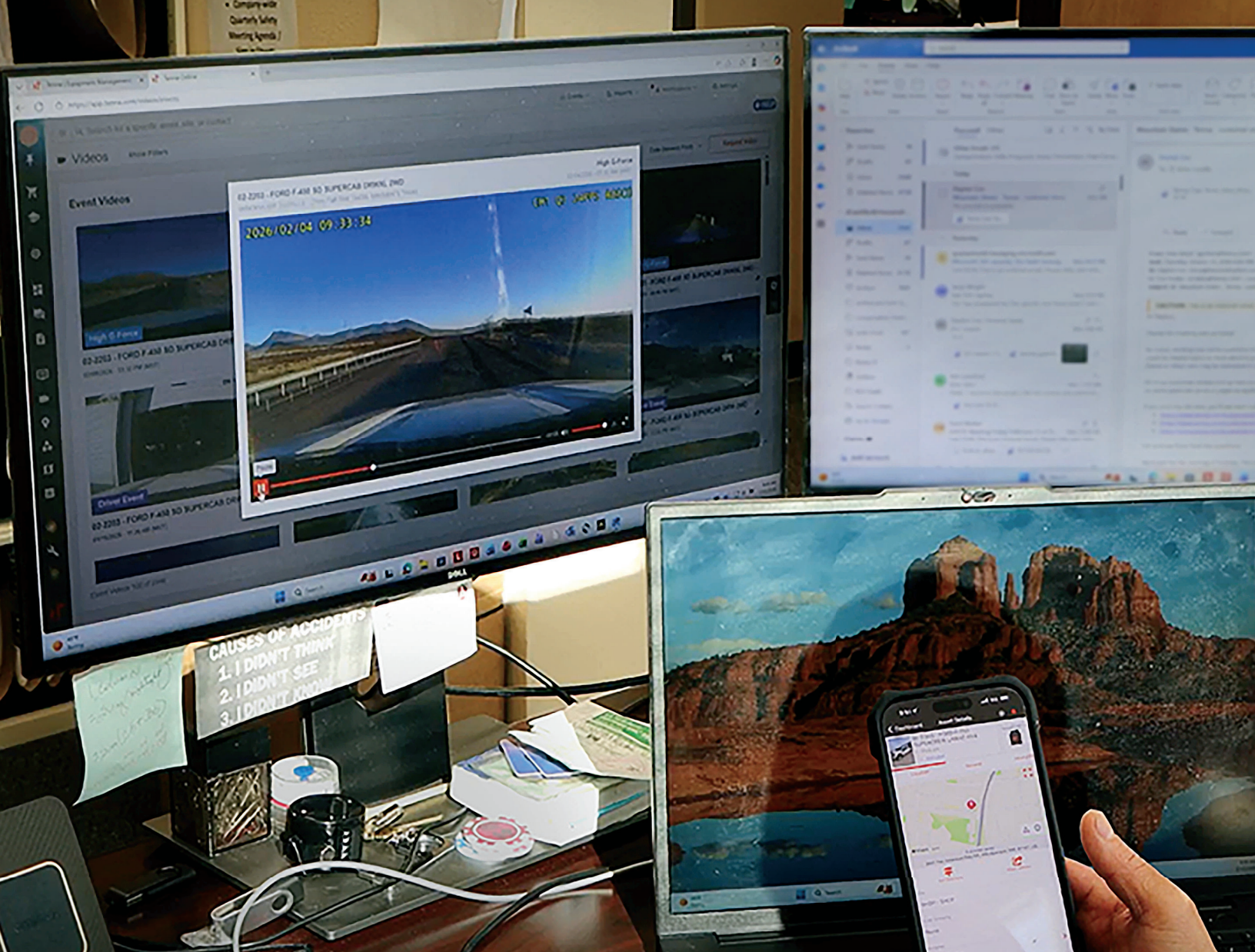
We have several subcommittees within the Safety & Health Council that focus on different topic areas, including regulatory issues, mental health, traffic and work zone safety, and highway safety. We also have a subcommittee focused on professional growth and certification. It's important for us to understand the key changes so we can educate our members. On the legislative front, as new legislation is proposed, we

review it and provide our input so legislators have our industry's perspective.

California Constructor: What impact do you think the AGC of California Safety & Health Council is currently having within the California construction industry?

Robert Rodriguez: I think we're having a tremendous impact. There are so many things that impact how we work. Keeping up with those things is imperative for any company. So raising awareness is a key part of what we do for members.

But we also want to encourage and drive change in the industry, whether it's advancements in personal protective equipment, how we manage safety, the approach to mental health issues, or the skill sets safety professionals are building to be effective. All these things tie together to drive real improvements and momentum in our industry for safety and health. ☘



One Platform, One Safety Story:

How Connected Safety Technology Reduces Risk and Jobsite Stress

BY ELIZABETH TORREZ, REGIONAL DIRECTOR, TENNA

Construction safety leaders rarely struggle with a lack of data. Instead, the challenge is often the opposite: too many alerts, too many systems, and not enough context to quickly

understand what's happening across fleets, equipment, and jobsites.

A sudden braking alert appears in one system. A driver complaint comes in by phone. A near-miss report arrives later in

the day. Safety teams are left asking the same questions: What happened? Was it preventable? And how do we keep it from happening again?

When safety data lives in disconnected systems, answering those questions can take time, and we all know that in construction operations, time matters.

Across the industry, contractors are increasingly adopting connected safety technologies to help identify risks earlier and better understand incidents. When these tools are integrated alongside equipment telematics on a single platform, safety teams gain something that's often missing from traditional safety programs: a complete picture.

Instead of reacting to isolated alerts,



Tenna technology consolidates safety-related data into a single platform, providing a big-picture perspective for safety teams.

contractors can see the full story behind safety events and act before small risks become serious incidents.

Identifying Risk Earlier with Scorecards

Traditional safety metrics tend to be reactive. Incident reports, Occupational Safety and Health Administration (OSHA) recordables, and insurance claims are critical indicators, but they measure outcomes after something has already gone wrong.

Driver scorecards offer a more pro-

active approach by surfacing safety and operational events as they occur. Using telematics data, connected scorecards can evaluate patterns such as speeding, harsh braking, aggressive acceleration, and distracted driving. These insights help safety leaders identify risky behaviors early and address them through coaching or operational adjustments before they lead to accidents.

Scorecards can also incorporate data and events captured by digital equipment inspections and AI dash cameras (for fleet vehicles and heavy equipment), including maintenance issues, near misses, risky driving behaviors, and obstructed cameras. This combination of data and video insights gives safety leaders a clearer understanding of how and why safety events occur.

At California-based electrical contractor Royal Electric, driver scorecards have become an important tool for reinforcing safety accountability across the company's fleet operations. By analyzing driving behaviors and coaching drivers using objective scorecard data, the company significantly reduced the number of drivers receiving low safety grades.

"We didn't have any challenges implementing driver scorecards," said Dina Kimble, CEO of Royal Electric. "We already have a culture of doing things the right way, but I think oftentimes people aren't even aware of some of the habits that we have in our daily practice when we're on the road. But what gets measured gets managed."

Instead of relying solely on incident reviews or direct intervention from safety managers, scorecards give drivers clear visibility into their own performance. When drivers can see how their behaviors affect their safety score, many begin adjusting their habits on their own—often before a manager ever needs to step in.

Technology alone cannot create a strong safety culture. Construction safety will always depend on experienced workers, attentive drivers, and leaders committed to protecting their teams. But connected safety technology housed on one unified platform can strengthen those efforts by providing the visibility needed to identify risks earlier, understand incidents more clearly, and reduce employee stress.



AI dash cameras that are increasingly used for fleet vehicles and heavy equipment play a critical role in safety.

This transparency shifts safety conversations from reactive enforcement to shared accountability. Rather than relying on assumptions or anecdotal reports, managers can use data to guide constructive discussions when needed, while many drivers take the initiative to improve their performance independently.

Cameras Provide the Context Data Can't

While telematics and scorecards highlight potential risks, they don't always explain why an event occurred. A harsh braking alert might indicate unsafe driving, but it could also reflect a driver reacting appropriately to another vehicle cutting into a lane or a pedestrian entering a work zone.

Dash cameras enabled with artificial intelligence (AI) help fill that gap by capturing short video clips around

driving events, giving safety teams immediate context.

For Nor-Cal Pipeline Services, a Northern California utility contractor, video insight has become an important part of understanding fleet incidents. By deploying AI dash cameras alongside telematics monitoring, the company can review footage when driving events occur and quickly determine what actually happened.

"Now with the cameras, we had hard proof evidence that shows our guys aren't at fault," said Nor-Cal Pipeline Fleet Manager Richie Azevedo. "We can use the cameras as a resource to figure out who is at fault."

That context protects drivers from unfair blame while still allowing safety teams to identify legitimate risks and opportunities for improvement.

Beyond incident review, the footage also supports proactive coaching. Safety

leaders can use real driving scenarios as training examples, reinforcing safe behaviors, and strengthening awareness of common hazards.

The Hidden Risk of Disconnected Systems

Despite the growing availability of safety technologies, many contractors still manage these tools across separate platforms. Telematics might live in one system, cameras in another, inspections in a third, and incident reporting in a fourth.

Each tool provides useful information on its own, but when systems operate independently, the bigger picture can be difficult to see. This fragmentation can introduce both operational inefficiencies and human stress.

Safety leaders often spend hours logging in to multiple dashboards, exporting reports, and manually connecting the dots between incidents, equipment activity, and driver behavior. During critical investigations, this delay can create uncertainty and pressure to make decisions without the full context.

Contractors such as Ferreira Coastal Construction experienced this challenge firsthand. Previously relying on multiple disconnected systems to track operations and safety performance, the company sought a more unified approach to fleet visibility and driver behavior monitoring. And the results were immediate.

Within just a few months, the number of drivers receiving poor safety grades dropped dramatically as coaching efforts became more targeted and data-driven. More importantly, safety teams no longer had to piece together information from multiple sources to understand events.

With unified visibility, they could focus on identifying risks and improving behaviors rather than chasing data.

Supporting Safety and Reducing Stress

Construction safety discussions often focus on physical risk: preventing collisions, avoiding injuries, and maintaining compliance. But the responsibility for preventing those risks also carries a significant mental burden for safety professionals, fleet managers, and supervisors.

When safety teams lack clear visibility into what's happening across their operations, every alert can feel urgent and uncertain. Investigating incidents becomes a race to gather information from multiple sources while leadership expects quick answers.

Connected safety platforms help reduce that uncertainty. By bringing scorecards, cameras, telematics, and operational data together in one environment, safety leaders gain the clarity needed to quickly

understand events and respond appropriately. Drivers benefit from fair, transparent feedback, while managers gain confidence that they're making decisions based on complete information.

This shift helps create calmer, more confident safety management across organizations.

Building Safer Jobsites Through Connected Insight

Technology alone cannot create a strong safety culture. Construction safety will always depend on experienced workers, attentive drivers, and leaders committed to protecting their teams. But connected safety technology housed on one unified platform can strengthen those efforts by providing the visibility needed to identify risks earlier, understand incidents more clearly, and reduce employee stress.

For contractors navigating the complexity of modern construction operations, that connected visibility tells a single, coherent safety story—one that replaces uncertainty with insight and, ultimately, supports the industry's most important goal: ensuring every worker returns home safely and healthy at the end of the day. 🌟



Elizabeth Torrez

Elizabeth Torrez is Regional Director for Tenna. With approximately two decades of experience in the construction industry, focused primarily on the California market, she is active in AGC of California and several other industry groups. To learn more about Tenna's connected safety solutions, visit tenna.com/safety-compliance.



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Construction Education Friend Award Winner

Turner's Bianca Johnson Built a Career on Giving Back to Community, Building Up the Local Construction Workforce

BY CAROL EATON

For as long as she can remember, Bianca Johnson has felt a calling to give back and make a difference in her community.

As a first-generation American, San Francisco native, and the only child of Filipino immigrants, Johnson – now senior director of community & citizenship for Turner Construction in Northern California – was shaped by her culture and resilience.

Growing up in downtown San Francisco's Tenderloin district, Johnson didn't just witness community challenges — she lived alongside them. From an early age, she learned what it meant to navigate independence, diverse communities, and responsibility, all while developing a deep commitment to giving back.

"I was exposed to a lot and it forced me to be independent at a very young age," recalled Johnson, noting that she became a regular volunteer at St. Anthony's Foundation and other local nonprofit organizations growing up. "But it also gave me perspective, and I knew early on that I wanted to be a part of my community and have influence over what was happening there."

That community-oriented mindset, reinforced by her Catholic school education, motivated Johnson to seek a career that leveraged her skills and enthusiasm for community building

and creating more equitable and inclusive workplaces.

Now more than 15 years into an architecture, engineering, and construction (AEC) career – nearly a dozen of those with Turner Construction – Johnson has become a driving force behind workforce development efforts across the region, helping build pathways through structured initiatives, partnerships, and training programs for sustainable careers in construction.

She has achieved that not only through her work at Turner but also through industry leadership as a Build California ambassador, a founding member of BuildIT, a board member for the Cypress

Mandela Training Center, and through her ongoing work with Girls Garage, ACE Mentor, and a variety of other workforce development organizations and community nonprofits.

This spring, the AGC Construction Education Foundation (AGC CEF) honored Bianca Johnson with its prestigious 2026 Construction Education Friend Award, recognizing her significant achievements to empower and inspire the next generation of construction professionals.

Unexpected Career Journey

Construction was never on Johnson's radar as she was earning a Bachelor of





Bianca Johnson (left, front) helped present a 2025 AGC of California school and community program grant check to Rising Sun Center for Opportunity.

Business Administration degree from the University of San Francisco, a Jesuit-based university that also embraces community service. Supported by a scholarship and internship from the public policy-driven Bay Area Council, she was exposed to a variety of leading local construction businesses and decided to explore architecture as a career, joining Gensler Architects in a marketing role.

Gensler was the architect partner with Turner Construction on various projects at that time. As a result, Johnson was able to get a firsthand look at an industry she had never really been exposed to – but quickly discovered she loved.

“Nobody in my family worked in construction, so I had a completely different perception of the industry – mainly men and dirty boots,” she said. “But visiting a Turner jobsite changed everything. I met powerful women leading and building — and I realized this was where I wanted to be, boots on the ground.”

Johnson joined Turner as marketing manager, serving in that role for about three years before pursuing the opportunity to follow her true passion as part of the company’s community and citizenship department. She worked

“Build California has helped fill a gap that I first recognized when I started this journey in construction myself, which is, how do you effectively communicate with young people about the industry? The way they absorb information now is unique, and Build California has really figured out how to use social media to their advantage to make those connections.” - **BIANCA JOHNSON**

with Turner’s former Community & Citizenship Director, Elena Anaya – another workforce development icon in the Northern California construction industry – prior to her retirement.

Driving Industry Change

Since then, she has expanded on Turner’s efforts in Northern California to fulfill its mission to make a difference and be a fully engaged, positive force in the communities where they live and work. Her work centers on expanding economic opportunities, creating workforce pathways, engaging youth early,

and embedding community impact into every project Turner delivers.

Over the years, Johnson said she has seen increased buy-in from project teams, clients, and the overall construction industry to create a more inclusive, equitable industry.

“I love getting to inspire our people and have them think differently about what the legacy is they want to leave behind,” she said. “It’s so great to see people engaging more in their local organizations or just thinking creatively of how they can get everyone to be part of this project that we are going to be building for some time.”



Bianca Johnson speaks with students from Build California.

Call to Action

The ongoing partnership between Build California, a program of AGC CEF, and industry leaders such as Bianca is essential to building a brighter future for the next generation of the construction workforce.

Become a Build California Ambassador and share your passion for construction careers! Visit www.buildcalifornia.com/ambassadors or partner as a sponsor by visiting www.buildcalifornia.com/sponsor.

As an industry, there is still a way to go to bridge that inclusivity gap, but we're trending in the right direction."

Build California Ambassador

Outreach to and engagement with a wide array of industry- and workforce-based organizations have been key to Johnson's efforts as she leads Turner's internal initiatives. For example, she has been involved with Build California, a program of the AGC of California Construction Education Foundation (CEF), since its inception. As a Build California Ambassador, she works to engage young people and raise awareness of the diverse career opportunities in construction.

"Build California has helped fill a gap that I first recognized when I started this journey (in construction) myself, which is, how do you effectively communicate with young people about the industry? The way they absorb information now is unique, and Build California has really figured out how to use social media to their advantage to make those connections."

As a leading AGC of California contractor member and workforce advocate, Turner has been a strong partner with Build California, participating in ev-

erything from contractors showcases to jobsite tours to serving as a key sponsor of Build California's inaugural NorCal Build California Summer Camp in 2025, among numerous other activities.

"Build California has been really great at bringing us together to collaborate as an industry," Johnson added. "We should not work in silos when it comes to initiatives as important as building our industry's workforce pipeline, so that collaboration is essential."

In addition to her work with Build California, Johnson said she is also especially proud of her work with local organizations like Girls Garage, which exposes girls and gender-expansive youth to careers in construction. As a mother, that work has taken on an even deeper meaning. "My daughter inspires everything I do," Johnson said. "When I think about the future of this industry, I'm thinking about her generation — what they'll have access to, what they'll see as possible."

CEF Award Winner

Johnson has received several awards and accolades throughout her years in the industry, including being recognized as a *San Francisco Business Times* "Woman

of Influence" and receiving the "Leading the Way Emerging Leader" award from St. Anthony's Foundation in San Francisco.

She is especially honored to be selected as winner of this year's Construction Education Friend award from AGC of California.

"I've gotten to witness the other recipients of this award at the AGC Gala in recent years, and to be part of the cohort of amazing individuals who have really championed construction education — people like Emiliano Sanchez (instructor with the Oakland Unified School District), who I really admire — is just such an honor."

Johnson attributes much of her achievements to her family — her daughter, who inspires her every day, and her husband, whose support has been constant throughout her journey. Seeing her daughter's excitement about her receiving the honor was particularly gratifying, Johnson added.

"At the end of the day, this work is bigger than any one award," Johnson said. "It's about opening doors, shifting perspectives, and making sure the next generation sees themselves in this industry — and knows they belong." ❀



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Inside AGC's LAC: Supporting Contractors Through Legal Insight

BY KEVIN HANNIFAN, ESQ.
AGC LEGAL ADVISORY COMMITTEE CHAIR



Contractors in California operate in a fast-moving legal and regulatory environment. Whether it is new legislation coming out of Sacramento, evolving labor requirements, or court decisions that affect construction contracts, these changes can have real impacts on how projects move forward.

For members of the Associated General Contractors of California (AGC), one of the most valuable resources in navigating this landscape is the Legal Advisory Committee (LAC), a collaborative body of leading construction attorneys who work alongside AGC staff and industry leaders

to help identify, analyze, and respond to legal developments affecting the industry.

The LAC is comprised of some of the most experienced construction lawyers in California, representing a wide range of specialties including contract law, public works, labor and employment, insurance and risk management, and dispute resolution. Through their collective expertise, LAC members provide AGC and its members with insight into emerging legal trends and practical guidance and counsel in their day-to-day operations.

Members can access the LAC's expertise directly through the AGC of Cal-

ifornia Legal Hotline, where contractors can submit legal questions and receive guidance from experienced construction attorneys. The program reflects AGC's commitment to collaboration, connecting members with trusted legal insight to help resolve issues early and keep projects moving forward.

Staying Ahead of Legal and Policy Developments

The LAC meets monthly to review developments in legislation, regulations, policy, and court decisions that affect contractors operating in California. These discussions

help ensure that AGC members remain informed about issues that may affect or influence project delivery, contract administration, labor compliance, and dispute resolution.

In addition to these regular meetings, the committee shares updates with members through webinars and legal briefings, providing ongoing analysis of key legal developments and practical takeaways for contractors.

LAC members also work closely with AGC's government affairs team by providing legal analysis and technical feedback on legislation and regulatory proposals affecting the construction industry. Their insights help ensure that AGC's advocacy efforts are grounded in a clear understanding of how policy changes will impact contractors in practice.

Supporting Contractors with Practical Contract Resources

Another critical function of the LAC is the ongoing development and maintenance of the AGC of California Legal Forms subscription service.

Through the Contracts and Forms Subcommittee, LAC members review and update AGC's suite of standard agreements to ensure they reflect the latest legal developments, statutory requirements, and industry practices within California. The library includes more than 20 contract forms designed specifically for projects in the state, available as customizable Word documents that contractors can tailor to their project needs.

Strengthening the Role of In-House Counsel

A recent development within the LAC is the creation of the In-House Counsel Subcommittee, a new initiative designed to strengthen engagement among attorneys who work directly within AGC member companies.

The Legal Advisory Committee recently created the In-House Counsel Subcommittee, a new initiative designed to strengthen engagement among attorneys who work directly within AGC of California member companies. In-house counsel play a unique and increasingly important role in the construction industry, bridging legal strategy with the operational realities of running a business.

In-house counsel play a unique and increasingly important role in the construction industry, bridging legal strategy with the operational realities of running a business. The subcommittee provides a forum for these professionals to connect with peers, share insights, and discuss issues from the perspective of those embedded within contractor organizations.

By creating a dedicated space for these conversations, the LAC aims to further integrate legal insight with the day-to-day operational challenges faced by general contractors. This initiative reflects AGC's commitment to ensuring that the committee continues to evolve alongside the needs of its membership.

A Collaborative Resource for AGC Members

At its core, the Legal Advisory Committee represents one of the most unique and valuable collaborations within AGC of California, bringing together industry leaders and top construction attorneys to

support the success of contractors across the state. Whether through legal guidance, contract development, legislative analysis, or educational programming, the LAC serves as a vital resource for AGC members navigating California's complex construction environment.

To learn more about the LAC, visit www.agc-ca.org/resources/advocacy/legal-resources/ or contact me at khanifan@coxcastle.com and/or AGC of California LAC Staff Liaison Payton Montes at montesp@agc-ca.org. ☎



Kevin Hannifan

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Building A Digital Defense: Why Owners and Contractors Need Cybercrime Insurance Now More Than Ever

BY JAY HOUGHTON, SEYFARTH SHAW LLP

In the construction industry, risk management is second nature. Owners and contractors adeptly navigate project risks such as delays, construction defects, and jobsite injuries. However, cybercrime has emerged as an omnipresent risk because the industry now depends on digital tools to build projects.

While many contractors still view cyberattacks as a remote threat, the reality is that digital vulnerabilities can be exploited to halt operations just as quickly as a catastrophic workplace injury. In short, cybercrime is no longer a remote risk; it is a current risk that owners and

contractors must factor into their business operations.

For construction professionals, cyber insurance has become an essential part of contemporary risk management, on par with general liability (CGL), workers' compensation, and builders' risk insurance. Those who act proactively to address this growing threat will safeguard their profits, cash flow, operational continuity, and reputation in an increasingly digital world.

Why Owners and Construction Companies Are Prime Targets

The construction industry has become

a lucrative target for cybercriminals, and the reasons are clear. Owners and contractors operate in a fast-paced environment, processing large payments under tight deadlines. They often rely on email and digital platforms to coordinate with each other and design professionals, subcontractors, and vendors.

These conditions create ideal opportunities for cyberattacks, particularly social engineering schemes such as wire fraud phishing.

The increasing digitalization of the jobsite has also expanded project participants' cyber vulnerabilities. Cloud-based project management tools, digital

blueprints, pervasive reliance on email, and remote access systems are now standard in the industry, but they come with inherent risks. Each platform, whether that of the owner, contractor, or other construction participants, is a potential entry point for cybercriminals.

Beyond financial theft, ransomware attacks pose a significant threat to business operations. Such attacks can bring construction projects to a standstill by freezing access to schedules, plans, payroll systems, and project data. The costs of recovery often far exceed the ransom itself once forensic investigations, data restoration, and downtime are factored in.

What Cybercrime Insurance Covers (and What It Usually Does Not)

Cybercrime insurance is designed to address the unique risks of operating in today's digital landscape. However, not all insurance policies are created equal. Understanding what is covered—and what is not—is critical for making informed decisions.

Cyber insurance policies typically address first- and third-party liability. First-party cyber liability insurance applies to cyberattacks on the insured's own network or systems. Third-party cyber liability insurance typically covers lawsuits following a cyberattack. Cyber insurance options typically cover the following:

- **Funds transfer fraud:** protection against losses when cybercriminals manipulate wire instructions.
- **Business email compromise response:** coverage for forensic IT investigations, legal services, and remediation efforts.
- **Ransomware and extortion:** payment of ransom demands, negotiation services, and data recovery costs.
- **Business interruption:** compensation

Cybercrime insurance is designed to address the unique risks of operating in today's digital landscape. However, not all insurance policies are created equal. Understanding what is covered—and what is not—is critical for making informed decisions.

for lost income due to downtime caused by a cyberattack.

- **Data breach response:** services for notifying affected parties, credit monitoring, and public relations efforts to mitigate reputational damage.

It is critical that construction professionals understand that there are several key exclusions that limit cyber insurance coverage, such as:

- **Social engineering gaps:** fraud involving voluntary transfers where deception is explicitly evident.
- **Unpatched or outdated systems:** policies may deny coverage if basic cybersecurity hygiene, such as software updates, is not maintained.
- **Third-party vendor risks:** claims arising from subcontractors or vendor platforms may be excluded unless expressly included in the policy.

It is also important to note that CGL and traditional crime policies are insufficient for addressing cyber risks. CGL policies typically exclude damages related to electronic data loss, while crime policies often fail to cover losses from social engineering or fraudulent instruction schemes unless specifically endorsed.

Digital Protection: Now A Cost of Doing Business

For construction participants, the digital age has brought opportunities that are now fraught with risk. Ignoring these risks is no longer an option. Cyber insurance is not a luxury—it is a necessity for protecting your business from financial loss, reputational damage, and operational disruption.

By taking proactive steps to secure your digital infrastructure and invest in tailored cyber insurance, your company will be better prepared to face the challenges presented by the modern construction landscape. ☁



Jay Houghton

Jay Houghton is a trusted adviser to owners, developers, contractors, and design professionals, guiding clients through all phases of construction with practical, business-minded counsel and a focus on delivering successful projects.

Understanding Contractual Risk Allocation is Key in Volatile Data Center Market

BY LAURENCE PHILLIPS, PROCOPIO, CORY, HARGREAVES & SAVITCH LLP

Data center construction in California is uniquely exposed to supply chain disruption.

Unlike conventional commercial projects, most value in a hyperscale or colocation facility lies in long-lead, specialty equipment: transformers, switchgear, generators, uninterruptable power supply systems, chillers, computer room air handling units, and integrated control systems. Delivery delays or price shocks involving a single component can derail commissioning schedules and trigger liquidated damages measured in millions of dollars.

Prime contractors, major mechanical, electrical and plumbing (MEP) subcontractors, and equipment suppliers must ensure the contract allocates risk.

Long-Lead Equipment: The Structural Risk Profile

Lead times for medium-voltage switchgear and utility transformers can exceed 12-24 months. Manufacturers frequently reserve broad rights to adjust delivery windows based on material shortages, labor conditions, or global logistics constraints. Equipment pricing may be tied to volatile costs for materials such as copper, steel, and fuel.

Prime contracts often contain:

- Fixed substantial completion dates.
- Strict liquidated damages provisions.
- Narrow force majeure clauses.
- No express cost-escalation

mechanisms.

- This mismatch can lead to disputes.

Force Majeure: Narrow Relief Under California Law

California courts enforce force majeure clauses as written. If the event is not expressly covered in the contract, relief may be unavailable.

Traditional force majeure clauses reference “acts of God,” war, labor strikes, and government orders. Post-pandemic, many contracts now include language addressing “epidemics,” “pandemics,” and “supply chain disruptions.” But contractors should not assume broad protection. Three recurring issues include:

- 1. Foreseeability** – If supply chain volatility is deemed foreseeable at the time of contracting, owners may argue it is not a force majeure event.
- 2. Causation Proof** – Contractors must typically demonstrate that the delay was directly caused by the qualifying event and could not be mitigated through reasonable efforts.
- 3. Time vs. Money** – Many force majeure clauses provide only schedule relief, not compensation. For equipment escalation, time alone does not solve the problem.

For MEP trades and equipment suppliers, the prime contractor will flow down strict schedule obligations. Without aligned upstream relief, subcontractors can be exposed to delay damages they did not create.

Cost Escalation: Fixed Price vs. Reality

California law generally enforces fixed-price contracts absent specific escalation language, and the doctrine of commercial impracticability is rarely successful in construction disputes.

In data center projects, specialty equipment may be procured months before fabrication. Between bid and release, manufacturers may issue revised quotes reflecting material volatility. If the contract lacks a price-adjustment mechanism, the party holding the fixed-price commitment absorbs the delta.

Common contractual approaches to mitigate price adjustment include:

- Material escalation clauses tied to published indices (e.g., *Engineering News Record* (ENR) building cost index, U.S. Bureau of Labor Statistics Producer Price Index).
- Allowance structures for long-lead equipment.
- Shared-savings/shared-risk formulas.
- Early procurement authorizations with separate guaranteed maximum price amendments.
- Price validity windows requiring rapid release after award.

Prime contractors should resist broad fixed-price commitments for equipment not yet procured, especially when upstream owner contracts contain no escalation relief. MEP subcontractors should

ensure quotes are expressly conditioned on supplier price validity periods and include documented assumptions.

Uniform Commercial Code Overlay: Equipment vs. Construction Contract

Many specialty equipment procurements fall into a hybrid space between goods (governed by the California Commercial Code) and construction services. Manufacturers' terms often include:

- Limitation of liability clauses.
- Consequential damage waivers.
- Broad excusable delay provisions.
- Payment acceleration triggers.

If the prime contractor has assumed liquidated damages exposure but the manufacturer disclaims delay liability entirely, the risk gap falls on the contractor unless harmonized by negotiation.

MEP subcontractors and suppliers should review upstream obligations before accepting downstream flow-down provisions. A limitation of liability in a purchase order does not protect against pass-through exposure if the subcontract expands liability beyond the supplier's terms.

Mitigation and Documentation

Even where force majeure or escalation clauses exist, California courts expect diligence. Contractors must:

- Provide timely written notice.
- Document procurement timelines.
- Demonstrate mitigation efforts (alternative sourcing, resequencing, temporary systems).
- Maintain contemporaneous cost records.

Failure to strictly comply with notice provisions can forfeit otherwise valid claims.

Commissioning and Delay Exposure

In data center projects, late delivery of a single component can delay integrated

Supply chain risk in data center construction is embedded in the delivery model. California law will enforce the allocation of risk the parties negotiate, even when market conditions shift dramatically. Contractors and suppliers must ensure that force majeure, escalation, and liability provisions reflect current procurement realities.

systems testing and push back substantial completion. If the prime contract defines substantial completion as successful commissioning, schedule relief tied only to delivery may be insufficient.

Contractors should align:

- Equipment delivery milestones.
- Commissioning prerequisites.
- Liquidated damages triggers.
- Force majeure relief provisions.

Without alignment, a 60-day transformer delay can cascade into extended general conditions, idle labor, and exposure to owner claims that exceed the value of the equipment itself.

Practical Contract Strategies

For prime contractors and major trades operating in the California's data center market, prudent risk management includes:

- Negotiating specific "supply chain disruption" language in force majeure clauses.
- Securing both time and cost relief for defined escalation events.
- Using early procurement packages for long-lead equipment.
- Aligning upstream and downstream liability caps.
- Clarifying responsibility for owner-

furnished or utility-supplied equipment.

- Requiring transparent supplier documentation supporting delay claims.

Conclusion

Supply chain risk in data center construction is embedded in the delivery model. California law will enforce the allocation of risk the parties negotiate, even when market conditions shift dramatically. Prime contractors, MEP subcontractors, and equipment suppliers must ensure that force majeure, escalation, and liability provisions reflect current procurement realities. ☒



Laurence Phillips

Laurence Phillips represents contractors, developers, and public agencies in all aspects of private and public works construction, including contract negotiation, prevailing wage compliance, bid protests, and the resolution of complex project disputes through litigation and alternative dispute processes.



The Private Works Change Order Fair Payment Act and Its Implications for Subcontractor Claims

BY THERESA BECERRA & ZACKARY SMITH, SPENCER FANE LLP

The Private Works Change Order Fair Payment Act (the “Act”), codified at California Civil Code section 8850, alters the leverage dynamics in private construction disputes.

Effective for most private construction contracts entered on or after January 1, 2026, the Act mandates a dispute-resolution procedure and strict timelines for claims involving time extensions, relief from delay damages, or disputed payments. The Act aims to bypass privity barriers, reduce financial hardships, avoid costly litigation, and pressure owners and contractors to pay subcontractors.

Most notably, the Act requires contractors to present and pursue subcontractor claims against the owner, while imposing deadlines and financial consequences

for owners who delay payment or fail to comply with the statutory process. These statutory protections are not waivable, and any attempt to insert a waiver of these protections or inconsistent terms in the subcontract is automatically void.

Breaking the Privity Barrier: The Pass-Through Claim Requirement

Subcontractors have long been frustrated by the inability to submit claims to the owner due to the lack of privity. Section 8850(j) bridges this gap by statutorily requiring contractors to act on lower-tier claims.

Upon receipt of a subcontractor’s claim, the contractor has 30 days to send the claim via registered/certified mail to the owner and then pursue it in good

faith. Under section 8850(j)(3)(B), the contractor is prohibited from settling a subcontractor’s claim without the subcontractor’s written consent.

Strict Timelines and the “Deemed Denied” Trap

Upon receiving a claim, the owner has 30 days to respond in writing and identify which portions of the claim are disputed and which are undisputed. The parties may agree in writing to extend the 30-day window for complex claims. Under section 8850(g)(1), the claim is “deemed denied” if the owner fails to respond within the allotted/agreed time.

The owner must pay any undisputed amount and/or execute a change order agreeing to any undisputed time exten-

sion within 60 days of issuing its written response.

If any portion of the claim is denied or the subcontractor disputes the owner's written statement, the contractor may request a meet-and-confer, which must occur within 30 days. If any portion of the claim remains unresolved, the owner has 10 days to issue a final written statement, after which the remaining claim(s) proceeds to nonbinding mediation.

If the parties cannot agree on a mediator within 10 days of the owner's final statement, the contractor may unilaterally select the mediator. Mediator costs must be split equally. If any claim(s) remains unresolved after nonbinding mediation, then those claims proceed to either litigation or arbitration, as specified in the contract. The parties may, in writing, waive the meet-and-confer and mediation processes.

The Ultimate Leverage: Financial Penalties and the Right to Stop Work

The 2% Interest Penalty: Any undisputed amounts not paid within the required timeframes accrue a 2% per month interest penalty. Furthermore, under section 8850(h)(2), if any disputed amount is later found to be owed to the subcontractor through arbitration/litigation, or by a final judgment, the 2% per month interest arguably applies retroactively from the date the payment originally became due, potentially creating significant exposure for owners.

This 2% penalty is different and in addition to the 2% penalty provided for in the prompt payment statute that governs progress payments (Civil Code section 8832).

The Right to Suspend Work: Subcontractors may suspend work without penalty if not paid. Under section 8850(k)(1)-(2), the subcontractor must first serve the owner with a written notice that payment is due

The Private Works Change Order Fair Payment Act creates a powerful yet highly procedural set of rights. It is imperative that several key areas be addressed during contract drafting and that subcontractors understand how to maintain proper documentation to support claims and how to submit claims correctly.

or that a claim was deemed denied, wait 30 days, and then serve a separate 10-day written notice of intent to suspend work.

This penalty is broader than the current right to stop work under Civil Code section 8832, which only allows the subcontractor to suspend work when there is no dispute as to the subcontractor's satisfactory performance of the work for which payment is due.

Operational Takeaways

The Act creates a powerful yet highly procedural set of rights. It is imperative that several key areas be addressed during contract drafting and that subcontractors understand how to maintain proper documentation to support claims and how to submit claims correctly.

Defining "Reasonable Documentation:" The subcontractor must cooperate with the claim process and provide the contractor with "timely and reasonable documentation" to support the claim.

To avoid disputes over the sufficiency of the subcontractor's documentation, the subcontract should define as explicitly as possible what constitutes "reasonable documentation." Among other things, subcontractors must maintain meticulous daily logs, labor tracking records,

payroll records, material invoices, and delay impact reports.

Mandatory Notice Procedures: Subcontractors must deliver all required notices by registered/certified mail; otherwise, the notice is invalid. Subcontractors must strictly comply with all notice timelines. ☹



Theresa Becerra

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Zackary G. Smith

Zackary G. (Zack) Smith represents public and privately held companies in industries including construction, manufacturing, oil and gas, and real estate with general and complex commercial litigation matters, arbitrations, and administrative proceedings in jurisdictions throughout the country.



The Growth of Arbitration and Mediation in Construction

BY MARILYN KLINGER, SMTD LAW

After 45 years of practicing construction law, representing virtually everyone on a construction project, including design professionals, owners, general contractors, specialty trade subcontractors, and bonding companies/sureties, I am now focusing my practice as a neutral party doing arbitration and mediation work.

During my time as a construction law “trial” attorney, the alternative dispute resolution field has grown exponentially, such that I had to start calling myself a “trial attorney,” both in court and in arbitration.

While there do not appear to be any statistical analyses comparing arbitration to court trials, my perception is that the majority of construction disputes have gone the mediation and then arbitration route rather than litigation and trial. The key reasons for that phenomenon are (1) mediation/arbitration clauses included

in form contracts (2) time to resolution, (3) privacy and confidentiality, (4) no juries, (5) finality/no right to appeal, and (6) limited discovery.

Following are a few observations about the use of arbitration and mediation in construction disputes.

Arbitration

The American Institute of Architects includes in its form construction contracts an option to arbitrate. The ConsensusDocs suite of contracts also includes the option of resolving disputes via arbitration. Most construction folks continue to select the arbitration option, whether under the American Arbitration Association (AAA) or JAMS rules.

As arbitrations are private and arbitration awards are confidential, some critics bemoan the fact that the resolution of so many construction disputes no longer creates precedent that parties can rely

on to manage the performance of their contracts. However, generally those criticisms are outweighed by the benefits of arbitration.

Among those benefits:

- They are private.
- The adjudicators will be knowledgeable construction professionals.
- Discovery is limited.
- The rules of evidence do not apply.
- There is no jury.
- The evidentiary hearing is scheduled sooner than trial.
- The parties can generally control the schedule and are not at the mercy of a judge.
- The arbitration award is final, most of the time, avoiding the appellate process and the delay and costs associated with appeals.

Occasionally, a few of the above benefits fall by the wayside, the most prevalent of which is the limitation on discovery.

Notwithstanding what should be one of the greatest features of arbitration, it seems that lawyers cannot help themselves. Therefore, each side's attorney frequently insists on extensive document production, starting with a 20-page Electronically Stored Information (ESI) Protocol and, thereafter, including email custodians' identification, searching for documents, emails, and texts, and spending thousands of dollars on an e-discovery vendor. (The jury is still out as to whether artificial intelligence will dramatically reduce the costs of ESI discovery.)

The parties then proceed with depositions. Because construction is essentially a team sport, there are numerous individuals who have knowledge of the project and, hence, presumably need to be questioned to find out what happened. (Although many lawyers use the mantra "if it is not in writing, it did not happen," they still insist on depositions, just in case.)

Although my last paragraph describes what can be a nightmare of arbitration, more often than not, discovery is kept to a minimum, so the parties receive an efficient, cost-effective, speedy, and knowledgeable resolution of their dispute. One complaint about arbitration is that arbitrators tend to split the baby, since one of their duties is to "do equity." That tendency appears to now be history.

The AAA and JAMS really do bend over backward to make the arbitration process as fair and expeditious as possible. And going before a jury to litigate a complex construction dispute with numerous technical issues is not the best way to obtain a decision devoid of emotion, one of the hallmarks of jury verdicts.

Mediation

Arguably, every matter deserves at least two mediations. Unfortunately, part of the reason for that mantra is that many con-

As arbitrations are private and arbitration awards are confidential, some critics bemoan the fact that the resolution of so many construction disputes no longer creates precedent that parties can rely on to manage the performance of their contracts. However, generally those criticisms are outweighed by the benefits of arbitration.

struction contracts require, as a condition for proceeding forward with litigation or arbitration, that the parties attempt to resolve their dispute first via mediation.

The problem with that condition precedent at that early stage of the dispute is that the parties often do not know enough about their case or, even more so, their opponent's case, to recognize its strengths and weaknesses, which then facilitate a settlement.

Nonetheless, mediation has been, for the last 30 or so years, a terrific way to settle construction disputes before the parties engage in full-fledged discovery, or at least before they need to prepare for trial or an evidentiary hearing.

Mediations have definitely changed in format over the years. Initially, the approach was to have each side give a presentation to the mediator, with the opposing side present. The benefits of doing so included: (1) the other side could see how bad they looked; (2) the presenting side could see how good or bad their lawyers and possibly experts did; and (3) the mediator could show the parties how much he or she understood their case.

That approach has changed. Presentations often pushed the parties farther apart. Mediators can also arguably understand the dispute based on the mediation statements such that they do not need the dog and pony shows of the initial presentations.

In addition, mediators and the attorneys are taking advantage of the fact that they may have ex parte communications, allowing the attorneys to speak candidly with the mediator about how to settle the dispute before the official mediation proceeds. We are also seeing that cases in mediation are settling, often after the official mediation hearing, based on the mediator's follow-up. ☘



Marilyn Klinger

Marilyn Klinger is the Managing Partner of SMTD Law's Los Angeles office and a nationally recognized construction law leader who now serves as a mediator and arbitrator, leveraging decades of industry experience to resolve complex construction disputes.



- 1 Daniel Chavarria
- 2 Rick Fochtman
- 3 Katie Blach Ellington
- 4 Tierney Azzopardi
- 5 Justin Cabral

Blach Construction Announces Key Hires and Promotions

Blach Construction has announced four key hires, including project executives in Monterey and Southern California and a senior director of marketing at its San Jose headquarters, along with several leadership promotions.

Project Executive **Daniel Chavarria** will support Blach’s continued expansion on the Central Coast. He brings more than 16 years of industry experience focused on design-build delivery of civic projects across Central and Northern California.

In Southern California, Project Executives **Rick Fochtman** and **Rick Willison** bring decades of experience serving the region’s education and institutional construction sectors.

Blach also appointed **Kate Vernon** as senior director of marketing. Vernon brings more than 20 years of construction marketing experience.

The company also promoted several longtime employees: **Tierney Azzopardi** to vice president of human resources, **Justin Cabral** to general superintendent following the retirement of John Mathias, and Katie Blach Ellington to vice president.

Azzopardi, who joined Blach in 2011, oversees talent acquisition, training, and organizational development. She leads the firm’s recruiting and internship programs, as well as professional development initiatives.

Cabral brings more than 30 years of construction industry experience to his new role. Since joining Blach in 2010, he helped develop the company’s next generation of superintendents. As general superintendent, he will oversee all field operations.

Throughout her career at Blach, Ellington has focused on driving innovation across operations, preconstruction, and the Folia team. As vice president, she will continue supporting preconstruction, virtual design and construction, and marketing while leading strategic company initiatives.



“As a lifelong resident of Santa Cruz, I’m incredibly proud to see our community, with one of the highest rental rates in the nation, lead the way in California with educator housing,” said Jared Bogaard, president of Bogard Construction.

The project is being delivered through an alternative design-build approach to align budget, constructability, site planning, and program goals. Working with architects EHDD and Studio VARA during preconstruction, Bogard expanded the project from an original 80-unit concept to 100 units.

The roughly 120,000-square-foot community includes studio, one-, two-, and three-bedroom apartments, along with site improvements and renovations to two existing buildings on the property. Construction is scheduled for completion in 2028. ☺

Bogard Construction Breaks Ground on Santa Cruz City Schools Project

Bogard Construction, in partnership with Santa Cruz City Schools, recently broke ground on the district’s first Educator Housing Community. Addressing the affordability challenges in the area, the 100-unit development will provide below-market-rate housing for district teachers and staff.

The project, funded through voter-approved Measures K and L, marks a major step forward for educator workforce housing in Santa Cruz County as school districts across California seek practical ways to address recruitment and retention in high-cost regions.

Calendar

May 5-6, 2026

AGC of California Legislative Day & PAC Fundraising Dinner at The Sutter Club, Sacramento

May 15, 2026

Build California Golf Tournament at Lincoln Hills Golf Club, Lincoln

June 1, 2026

Bay Area Region Golf Tournament at Castlewood Country Club, Pleasanton

June 11, 2026

Delta-Sierra District Mixer at Swabbies on the River Mixer, Sacramento

July 23, 2026

"Hackers & Slackers" Golf Tournament at Birch Hills Golf Course, Brea

August 27, 2026

Southern California Region Hot Summer Night at Puesto Anaheim

August 28, 2026

Small Business Construction Expo (SBCX) at the Hilton Anaheim

August 31, 2026

Bay Area Region Clay Shoot at Birds Landing Shooting Sports, Birds Landing

September 11-13, 2026

Legal Advisory Committee Retreat at The Lodge at Torrey Pines, La Jolla

September 21, 2026

Delta Sierra District Golf Tournament at Granite Bay Golf Club, Granite Bay

October 6-9, 2026

CONSTRUCT Annual Conference at Grand Hyatt Indian Wells

November 19, 2026

San Joaquin District Forecast Dinner at Sunnyside Country Club, Fresno

December 4, 2026

Bay Area Region Holiday Luncheon at Pinstripes, San Mateo

December 4, 2026

Riverside/San Bernardino District Holiday Dinner at the Mission Inn, Riverside

December 11, 2026

Eureka-Shasta Holiday Gathering & BOD Meeting at LuLu's Establishment, Redding

December 11, 2026

Southern California Holiday Party & Toy Drive at House of Blues, Anaheim

December 14, 2026

Delta-Sierra Holiday Board Meeting & Happy Hour, location TBD

December 16, 2026

Tri-Counties Holiday Luncheon, location TBD

SAVE THE DATE: MAY 5-6, 2026

AGC PAC Fundraising Dinner & Legislative Day Addressing The Issues That Matter

Join AGC of California for its annual PAC Dinner and Legislative Day at the Sutter Club in Sacramento on May 5-6, 2026!

This two-day program brings AGC of California members face-to-face with state legislators to build relationships and advocate on the issues that matter most to California's construction industry.

This year's program kicks off at the Sutter Club, followed by a PAC Fundraising Dinner at Camden Spit & Larder, where members will connect with nearly a dozen legislators. The following day features a full Legislative Day at the Capitol, including speakers and in-office meetings to advocate for AGC of California's priority bills.

For more information, please contact Chris O'Connor, Senior Vice President for Government & Industry Affairs, at occonnorc@agc-ca.org.

For information or to register, visit www.agc-ca.org/event/legislative-day-pac-fundraising-dinner-2026.





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