



# ACCM Insider

## President's Message: Let Construction Managers Develop Delivery Methods

*By Ed Mierau, Neff Construction*  
 We're entering the 2009-10 Legislative Session and the bills are beginning to be introduced. Our lobbyist is tracking both legislation and rumors of legislation to keep us informed of what the Legislature and interest groups want to do to our businesses. As you know, we still don't have a final budget for 2008-2009. The budget that was nearly four months late must now be redone, because of dramatically lower state revenues that were projected. That means that in February of 2009, the June 2008 State Budget is still unfinished. Our lobbyist expects the updated current-year budget to be voted on somewhere between February 13th and 16th. Those of you who were able to attend the ACCM Financial Crisis workshops learned that even with a budget restructuring this week, the bond market will

remain behind normal for months. This is all a lead in to if Sacramento has such a hard time running their business, why do they keep trying to run ours?

Each year, and this year will be no exception, bills are introduced to narrowly describe construction management delivery methods. In 2007, ACCM published the Project Delivery Handbook, which is a testament to the creativity of our industry. It is used as a training resource for the Division of the State Architect, the Office of Public School Construction, the Coalition for Adequate School Housing and dozens of local agencies. There are seven different delivery methods described in addition to Design Bid Build. Many of you are already developing methods for providing services that aren't in the book: Integrated Project Delivery and Design Assist come to mind. We know that the industry's best thinking goes into meeting owners' needs. We know that we are a creative group and each of us prides ourselves in being able to improve upon his competitor's delivery method ideas. This all comes to a grinding halt when the parameters of a delivery method are statutorily limited.

We were all doing a version of Design Build until the Legislature discovered it in 2001. Since it has been

"codified" and a number of specific limitations placed on its procurement, only a handful of projects have gone forward. Instead, other delivery methods have been focused on to better coordinate construction management expertise into the design phase of construction and to better access quality trade contractors and control costs. ACCM has worked hard to convince legislators that we don't need help with our creativity. We were successful at having a couple of those "construction management" bills pulled last year. This year we will be working along those lines again.

I hope you'll join me in this bottom line. Existing law allows each of us to provide "preconstruction services." Existing law allows a CM to be hired to advise an owner and work with an architect during the design phase. We don't need new laws that tell us in order to do what we successfully do now, we have to include hundreds of thousands of dollars worth of new meaningless procedures.

### Mark Your Calendars!

ACCM General Membership Meeting

February 25, 2009

Sacramento Convention Center



### Inside the Insider...

ACCM Bond Workshops.....	p. 2
Membership Meeting Info.....	p. 2
ACCM Advocate.....	p. 3
ACCM Calendar.....	p. 4
Cowan's Corner.....	p. 4
Federal Stimulus.....	p. 5

## ACCM 2009 Financial Crisis Workshops Bring Insight Into Bond Projects

ACCM members, nonmembers, trade contractors and general contractors gathered on February 12th and 13th to hear about the 2009 Financial Crisis and how it will affect their business and their projects. Presenting were: Tom Sheehy, the Governor's Chief Deputy Director of Finance; Blake Fowler and Katrina Johantgen from the State Treasurer's staff; municipal finance experts John Baracy and Bruce Kerns; attorneys Blair Shahbazian, Mark Kelley and Jonathan Mott; as well as ACCM Presenters Dick Cowan, Dana LeSher and Terry Zinger.

Attendees received advice on how to structure and interpret suspension and termination clauses. They also learned about new financing alternatives that are coming available. Some left with the conclusion that the costs of trying to suspend or terminate a project may be greater than the costs of bridge financing for a particular project. What we also heard was that the bond market that supports California's infrastructure projects has been significantly harmed by the national economy as well as the State's lack of a balanced budget. One interesting factor raised by Tom Sheehy is that housing starts for 2008 are at the lowest point since 1959. Ever wonder why there are so many residential contractors bidding on your projects? In addition, Blake Fowler pointed out that because of the bond freeze and cash crisis, the state would have to sell somewhere around \$9.5 billion in bonds just to catch up with the state's PMIA deficit before bonds for new projects could be issued. California has never issued that amount in a single year.

For those of you who would like to review the Power Point presentations, they are available on the ACCM website ([www.ACCM.com](http://www.ACCM.com)).

### DON'T GET LEFT OUT!

### ACCM ALL MEMBER MEETING FEB 25

The next membership meeting will be held on Wednesday, February 25th from 2:30 to 4:00 p.m. at the Sacramento Convention Center, Rooms 317/318. This meeting will be held during the Coalition for Adequate School Housing Annual Conference, but you need not attend the C.A.S.H. Conference to attend the ACCM meeting.

We will focus on State Legislation and bond status and discuss plans for our May Annual Conference in San Diego. Invited speakers include Assembly Member Roger Niello, who was one of the Republican leaders

involved in negotiating the State Budget. Assembly Member Niello serves as Vice Chair of the Assembly Budget Committee and served as the lead negotiator on budget issues for the Assembly Republican Caucus.

Roger is a businessman who served as the President of the Sacramento Metropolitan Chamber of Commerce and was elected to the Sacramento County Board of Supervisors in February of 1999. As a member of the Board of Supervisors, he served Sacramento County on numerous boards and commissions.

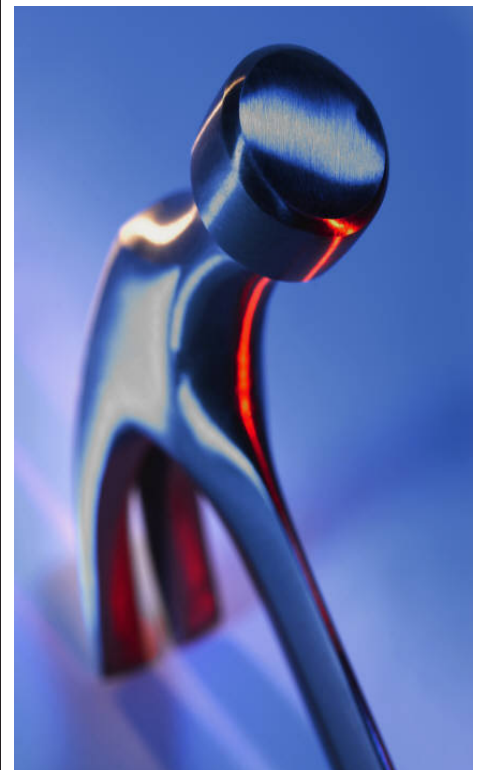
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## ACCM Advocate

*By Ernie Silva, Murdoch, Walrath & Holmes*

### ACCM Urges Gov to Exempt State Architect

As part of Governor Schwarzenegger's efforts to control State costs, he issued an Executive Order requiring State employees to take two furlough days per month unpaid beginning in February 2009. This Order has been the subject of litigation and much controversy. Recognizing the need to control spending, ACCM has asked the Governor to reconsider applying a furlough to the Division of the State Architect for several practical reasons.

First, unlike agencies that are General Fund supported, DSA salaries are paid through the collection of DSA plan check fees. Lowering the level of effort will have a directly corresponding negative impact on the collection of fees and DSA's budget without any direct effect on the overall state budget.

Second, many of these projects have already been delayed by the freeze of projects by the Pooled Money

Investment Board. Reductions of staff time to process these construction projects would add further delay and prevent shovel-ready K-14 infrastructure projects from providing economic recovery.

Third, the existing process involves DSA in ongoing construction, as well as plan review. Delays in these areas would slow work-in-process. For example, changes to previously approved projects that are out to bid may have plan amendments that require further DSA approval. Change orders for projects under construction relating to the structure, access, and fire and life safety systems also require DSA approval and could be delayed by staff-hour reductions.

We are hopeful that as this budget crisis is resolved, the Governor will see the value of utilizing DSA full-time to rebuild California's economy.

### Budget Deal?

As the Insider goes to print, legislators prepare for a Saturday, February 14 vote. There are still no guarantees that the state budget will garner the necessary three Republican Senate and Assembly votes needed for a 2/3 majority. Details are still being worked out. ACCM will provide an analysis after the vote when the specific language is released.

This year's unprecedented budget shortfall has resulted in an unprecedented multi-year approach. The \$42 billion deficit includes about \$18 billion in current year shortfalls. You will remember that the current year budget wasn't approved for months after it was due. Now nine months later, the economic recession has resulted in serious shortfalls in revenue. That is, tax collections

have been much lower than projected in September. As a result, cuts have to be made for the current year and for next year. In addition, the package includes tax increases for the next year. Imagine being asked to cut programs that you support and raise taxes that you don't in February and then again in May. So the solution being put up for a vote is an "18-month" budget. The appropriations will be voted on just once. This is essentially the earliest the Legislature has ever been with a budget. However, the interesting part is that program changes can be made with a simple majority vote so long as they don't increase appropriations.

This will be a rocky start to a very dismal budget.

### O'Connell Sponsors School Bond

Superintendent of Public Instruction Jack O'Connell has sponsored AB 220 (Brownley) the 2009 Statewide School Bond Bill. Specific provisions will be developed over coming months in consultation with ACCM and other interest groups. ACCM members will have the opportunity to discuss the needs they see for a school bond at the February 25th ACCM Membership meeting and again at the May Conference.

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## News from DSA by Dick Cowan, Clark & Sullivan



The successful Collaborative Process DSA has encouraged for the past several years has been fully authorized by legislation for both K-12 and Community College projects. DSA has drafted some guidelines for the collaborative process and invites our comments on the guidelines. You can see the draft on the DSA website.

Beginning in March, State Architect Dave Thorman will begin a tour of district superintendents around the state for a face-to-face discussion on district and board responsibilities under the Field Act and how to best work and communicate with DSA. Alert your clients and long time district architects if they wish to prep supers for these meetings.

The 2007 CBC receives its first update this summer. We may propose amendments through the DSA Advisory Board Codes and Standards Committee, and DSA staff will write them for submission to the CBSC. ACCM Members serve on the Advisory Board committees and are drafting several code amendments which will better enable CM and Alternate Delivery.

Those who are hoping for relief in the form of construction tolerances for ADA requirements may find them in the Federal Standards to be published in February, even though they may have an effective date into the future. DSA staff may write IR's on how the California Code can use tolerances once the Guidelines are published.

Grid Neutral is hot at DSA. There are lots of issues relating to rooftop installation of solar panels—fire access, shutting down power from panels in an emergency, smoke retention by panels, and roof life and maintenance. Look for IR's and Bulletins on these subjects, and look for many good opportunities for Districts to join utilities and private power providers in retrofitting schools.

DSA has issued a new Code Appeal process which project teams can use if they believe a code interpretation by a DSA Staff person is in error. Look for the forms and process on the website. The intent is to get correct, fair, and fast interpretations to project teams, and the process can even be sued prior to design starting if a situation requires it.

# ACCM Calendar

### February 2009

- 25 ACCM General Membership Meeting, Sacramento
- 27 Last Day for Bills to be Introduced

### March 2009

- 5 Officers' Conference Call-4 p.m.
- 26 All Member Action Item Conference Call-4 p.m.

### April 2008

- 2 Officers' Conference Call-4 p.m.  
Legislature Spring Recess Begins
- 13 Legislature Reconvenes

### May 2009

- 7 Officers' Conference Call-4 p.m.
- 19-20 Annual Conference  
San Diego
- 21 General Membership Meeting  
San Diego

\*\*Meeting dates and times subject to change.\*\*



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# Federal Stimulus Package Nearing Final Approval

*By Ernie Silva, ACCM Advocate*

The on-again, off-again stimulus package has been taking shape. As the *ACCM Insider* goes to press, these are among the provisions that are expected to be approved by Congress on a slim majority vote.

The American Recovery and Reinvestment Act provides \$311 billion in appropriations. Among other things, the final agreement will provide vital relief to states – including funds that will create jobs by modernizing schools and colleges – to help stave off layoffs. It allows states to invest in renovating, repairing and modernizing schools and colleges. For workers who have been laid off, the plan will help train and prepare them for green jobs and other 21st Century jobs.

The final agreement reached by House and Senate negotiators includes:

- \$53.6 billion for the State Fiscal Stabilization Fund, including \$39.5 billion to local school districts using existing funding formulas, which can be used for preventing cutbacks, preventing layoffs, school modernization, or other purposes; \$5 billion to states as bonus grants for meeting key performance measures in education; and \$8.8 billion to states for high priority needs such as public safety and other critical services, which may include education and for modernization, renovation and repairs of public school facilities and institutions of higher education facilities.

- Almost \$4 billion for job training programs to help prepare laid-off, adult, and younger workers prepare for jobs in emerging industries including green jobs.

- \$120 Billion in Investments in Infrastructure and Science:

- \$7.2 billion for Broadband to increase broadband access and usage in unserved and underserved areas of the Nation to better position the U.S. for economic growth, innovation, and job creation.

- \$2.75 billion for the Department of Homeland Security for airport baggage and checkpoint security, construction of border points of entry, construction of fire stations, port, transit, and rail security, and other measures.

- \$1.2 billion for VA hospital and medical facility construction and improvements.

- \$3.1 billion for repair, restoration and improvement of public facilities at on public and tribal lands.

- \$4.2 billion for Facilities Sustainment, Restoration and Modernization

- \$2.33 billion for Department of Defense Facilities including family housing, hospitals, and child care centers.

- \$2.25 billion through HOME and the Low Income Housing Tax

Credit program to fill financing gaps caused by the credit freeze and get stalled housing development projects moving.

- \$1 billion for the Community Development Block Grant program for community and economic development

- \$6.8 Billion for national projects including NASA, the National Science Foundation, Department of Energy and the National Oceanic and Atmospheric Association.

- Transportation Projects include:  
• \$27.5 billion for highway investments

- \$8.4 billion for public transportation.

- \$1.5 billion for competitive grants to state and local governments for transportation investments.

- \$1.3 billion for investments in our air transportation system.

- \$9.3 billion for investments in rail transportation

Other appropriations include:

- Investments in Health - \$14.2 billion

- Investments in Energy, including over \$30 billion in infrastructure - \$37.5 billion

- Helping Americans Hit Hardest by the Economic Crisis - \$24.3 billion

- Law Enforcement, Oversight, Other Programs - \$7.8 billion

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