

**WE REPRESENT CLIENTS IN ALL PHASES OF A PROJECT, FROM CONCEPTION TO COMPLETION, AND LONG THEREAFTER.**



**BENJAMIN T. REYES II**

*Chair, Public Contracts and Construction Practice Group*

Ben has experience in virtually every challenge that could arise in all phases of a project and has litigated cases involving major public works projects. He has handled over 200 bid protests and has written bid protest specifications for several public agency clients. Currently, Ben serves as Chair and editor for Chapter 7, "Public Contracting," of the California Municipal Law Handbook, published by the League of California Cities.

Public procurements and construction contracts often entail complex relationships between public agencies and contractors, subcontractors, engineers, architects and so forth. Given this and that project's scope may change throughout the process, we work hard to protect our public agency clients, including how to best address budget concerns and avoid contract disputes. Our services encompass everything from prequalification and bid specification review through to resolution of claims.

Meyers Nave's highly-skilled team of attorneys understands the complexities of procurement and construction laws as well as their interplay with the numerous statutes and regulations governing such projects, including the California Environmental Quality Act (CEQA), the new "Green Building" and energy standards, and the Public Contracts Code.

On behalf of our clients, we draft and review contracts, bid documents, prequalification and debarment of contractors and professional services agreements to ensure that they can maximize resources and limit liability. Further, we work hard to help clients prepare and analyze surety bonds, review indemnity claims, and resolve work scope and design responsibility issues.

**INITIAL PLANNING STAGE**

Meyers Nave provides public contract advice and support at the initial planning stage on matters including environmental review, permitting and project delivery methods. We have assisted in standard renovations to more complex, unique projects.

Our philosophy is simple: by allowing us to be involved early on a project, we can help ensure that the project proceeds expeditiously and efficiently, thereby avoiding any needless delays and expenses of disputes and litigation.

**ENSURING A FAIR PROCESS**

As legal counsel, we recognize our responsibility in ensuring that competition in the

bid process is open and fair to stave off costly pre-award/post-award challenges that can significantly delay a much needed project.

To this end, we have prepared bid protest procedures, prequalification questionnaires and programs, and design-build requests for proposals and have assisted clients with the evaluation and selection process of design and construction professionals for several major projects.

**PROJECT SPECIFICATIONS**

We have drafted general terms and conditions for construction specifications, including sections relating to Minority and Women Business Enterprise rules in a post-Proposition 209 environment. We are also familiar with the implications of *Coral Construction v. City and County of San Francisco*, which successfully challenged Proposition 209.

In addition, we frequently write "front end" (Division 00 and Division 1) specifications for our clients. Rather than reinventing the wheel, we apply our knowledge and lessons learned when we review and provide recommendations to keep legal costs down.

**TECHNOLOGY & EQUIPMENT CONTRACTS**

We have prepared and reviewed procurement contracts for the purchase of high technology information systems and specialized equipment. Some of these purchases include hydropower turbines, replacement generator fan blades for a geothermal power plant, horizontal drilling equipment, disinfection

*Public Contracts & Construction Services*

- **Conceptual Project Planning**
- **Public-Private Partnerships**
- **Green Building and Energy Efficiency Standards**
- **Environmental Review**
- **Licensing, Bonds and Insurance**
- **Prequalification and Debarment**
- **Drafting and Review of Bid Documents**
- **Evaluating and Awarding Bids**
- **Bid Protests and Disputes**
- **Preparation and Review of Consulting Contracts**
- **Resolution of Change Orders**
- **Contractor Disputes**
- **Substitution of Subcontractors**
- **Progress Payment Issues**
- **Final Accounting and Audits**
- **Stop Notices and Mechanics Liens**
- **Claim Resolution**
- **Delay and Extra Work Claims**
- **Claims of Imperfect Specifications**
- **Claims on Bonds and/or Insurance**
- **Alternative Dispute Resolution**
- **Litigation and Appeals**
- **Defect and Warranty Claims**
- **Prosecution of False Claims**

chemicals for a wastewater treatment plant, VOIP systems and cable television compression equipment.

**PREVAILING WAGE COMPLIANCE**

We advise our clients on the potential impacts of federal and state prevailing wage statutes and regulations, notably the Davis-Bacon Act and the California Labor Code, related to proposed transactions and public projects, including public-private partnerships.

Our attorneys routinely advise staff on prevailing wage compliance and procedures, and have experience related to enforcement hearings before the Department of Industrial Relations. We track current legislation, serve on legal advisory committees, and frequently issue comments to legislators on proposed legislation.

**DISPUTE RESOLUTION & LITIGATION**

Given that lawsuits can sever relationships and prove costly, we strive to reach agreement through mediation and arbitration. However, at times, litigation is necessary.

Our team represents clients through all phases of contract and construction litigation from claim analysis and negotiation to trial and appeal.

In addition to defending claims filed by contractors, construction managers, subcontractors, etc., our litigation team has actively pursued and been extraordinarily successful in recovering amounts due to our clients on various construction projects. We often deal with insurance and surety claims, and have secured insurance coverage and funds for settlement or project completion.

For example, we helped the City of Larkspur obtain \$8.3 million from an international engineering firm to recover the cost of replacing a prematurely deteriorating vehicle bridge. Since

the 10-year statute of limitations had expired, the firm was only able to pursue the claim on a fraud and concealment theory. After overcoming two summary judgment motions, and following a six-week trial, we secured a win for our client to rebuild the bridge.

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OAKLAND  
LOS ANGELES  
SACRAMENTO  
SAN FRANCISCO  
SANTA ROSA  
FRESNO

555 12th Street  
Suite 1500  
Oakland, CA 94607  
800.464.3559  
blog: [publiclawnews.com](http://publiclawnews.com)  
[www.meyersnave.com](http://www.meyersnave.com)