

# CONSTRUCTION

## Developing & Defending California's Most Complex Projects

Construction at Meyers Nave is built on industry veterans. [Eric Firstman](#) has spent more than four decades as a litigator and strategist on California's largest public works. We carry clients through the *whole arc* of delivery, from the earliest planning decisions through the procurement contracts, change management, and federal funding calls that surface mid-build, to the high-stakes claims made when it matters most.

We work the projects some of us once drew, calculated, and built. We feel at home working shoulder to shoulder with engineering and project management teams, and give decision-makers real options for controlling cost, reading risk early, and outmaneuvering the other side.

## Fluent in the Language of Construction

Build a thing, and you start seeing what everyone else misses.

Our attorneys came to law from architecture, design, engineering, and software before spending decades litigating, so a critical-path schedule, a structural detail about the behavior of concrete, or a database-heavy discovery record is our backyard. When a contractor's expert walks through a design or a delay analysis, we meet them on the merits and in their own language.

That fluency changes what we catch in a contract and how we position a client from day one. We build the record and strategize continuously as the work proceeds. If a dispute arises, the record is already made, the levers and offramps are already in place, and our team is ready to hit the ground running.

## Every Phase of the Job

We know the *entire* project lifecycle, from the first feasibility study to the final claim. We shape strategy, run procurements, draft the contracts, advise through construction and change management, and tackle the disputes that come before, during, and after — all the way to the top. Each sharpens the rest; we draft knowing exactly how contracts and decisions get attacked, and we litigate knowing exactly how the project was procured and built, so our positions match the facts on the ground.

- **Public Contracts & Procurement** – Solicitations, prequalification, bidding, contract packages, bid protests, and federal-funding compliance for the government entities that build and govern California

## PRACTICE CHAIR

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Eric  
Firstman  
PRINCIPAL

## ATTORNEYS

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Neven Borak  
Kenton Eliot  
Eric Firstman  
Ian Johnson  
Doug McManamon  
Harry Moren

- **Private Project Delivery** – Delivery-model selection, owner-contractor and design agreements, risk allocation, and procurement strategy for developers, owners, contractors, and suppliers
- **Counsel Through Construction** – Change orders, schedule and delay issues, payment, and the daily decisions from notice to proceed to closeout
- **Claims, Disputes & Trial** – Delay, disruption, differing site conditions, design defects, and bond and indemnity disputes, handled from first filing to final resolution, at the table, in arbitration, or at trial

## Every Delivery Model

We've structured, contracted, and defended every type of project in California.

- **Public & Private Delivery** – Comprehensive experience, from competitively bid public works to negotiated private development
- **Design-Bid-Build** – Traditional delivery, with a claims profile we know cold
- **Design-Build & Progressive Design-Build** – Single-point delivery and the new progressive statutes, including GMP development and off-ramps
- **Construction Manager at Risk (CM/GC)** – GMP-based delivery with early contractor involvement
- **Job Order Contracting** – On-call, task-order delivery for recurring work
- **Public-Private Partnerships (P3)** – Combined public and private investment that shares risk across a project's life

## Every Major Sector

Our clients' [industries](#) define how California lives, moves, and grows. And they depend on us getting the work done right.

- [Government & Public Policy](#) – Civic centers, public facilities, and the entities that commission them
- [Real Estate & Housing](#) – Urban, mixed-use, and housing developments
- [Transportation & Infrastructure](#) – Airports, roads, rail and transit, telecom, energy, and universities
- [Sports & Entertainment](#) – Stadiums, arenas, and the entertainment districts built around them
- [Supply Chain & Logistics](#) – Ports, freight corridors, and industrial hubs
- [Water Resources](#) – Dams, reservoirs, treatment plants, power generation, and stormwater systems

## Elite Talent, Boutique Precision

Meyers Nave bundles the elite talent and capabilities of the largest law firms with the surgical precision and anticipatory client service of a boutique. That combination, plus an unbeatable cost-effectiveness proven over four decades, is why top clients consistently choose us over both larger and smaller firms alike.

## One Project, Carried the Whole Way

A project is one continuous decision. We know how to plan it that way from the first contract. *And we know how to jump in at any stage.*

The site that must be assembled; the approvals that must be won and defended; the crews that will build the work; and the [public process](#) that surrounds it all. We know what to do before the first shovel moves and at every stage. As the project develops, we can follow it from the earliest planning stages through environmental review, into acquisition, onto groundbreaking, then construction, and all the way through the employment and governance questions that come with delivering and operating public-facing work.

**Meyers Nave is your go-to strategic partner.**

## EXPERIENCE

### Transbay Joint Powers Authority – The Portal

Lead construction counsel on the estimated \$7 billion Downtown Rail Extension, a two-mile tunnel carrying Caltrain and future high-speed rail into the Salesforce Transit Center, where eleven transit systems will meet. A project this size does not run on a scaled-up standard contract, so we built the delivery structure instead, a \$2 billion progressive design-build contract for the civil and tunnel work and two CM/GC contracts for stations and systems. We also drafted the RFPs and RFQs, allocated risk among the separate station, systems, and utility contractors, wrote the organizational conflict-of-interest policy, and carry federal funding compliance under 2 CFR Part 200 and FTA Circular 4220.1G.

### Santa Clara Valley Transportation Authority (VTA) – BART Silicon Valley Extension

Lead litigation counsel defending contractor claims of more than \$50 million on the nearly \$1 billion design-build contract for the extension from Fremont to North San Jose, over alleged systems deficiencies and construction delay. We filed counterclaims and ran the settlement, and after four years and more than 100 depositions the Authority took \$20 million in cash and kept \$5 million in forfeited retention. The contractor recovered nothing.

### Los Angeles World Airports (LAWA) – LAX Construction Litigation

Lead litigation counsel across the airport's construction docket, including closeout of the CM-at-Risk core and gates contracts on the \$2 billion Bradley West terminal rebuild. We settled \$23 million in delay and differing-site-conditions claims on Taxilane S, litigated the concrete deterioration on Runway 25L, and settled the prevailing wage enforcement disputes on the first day of trial.

## Kaiser Hospitals – Design-Build Default Termination

Complex arbitration following default termination of the design-build contractor at roughly 30% completion of the \$300 million project; the final award granted the contractor zero on \$130 million in lost-profit and quantum meruit claims.

## City of Berkeley – Central Library

Contractor claims exceeding \$10 million and more than \$2 million in claimed retention ended at zero by enforcing the contract's claim procedures, through two published opinions, *Arntz Builders v. City of Berkeley* (2008) 166 Cal.App.4th 276 and *Westamerica Bank v. City of Berkeley* (2011) 201 Cal.App.4th 598.

## Washington Hospital Healthcare System – The Master Plan

Construction counsel on the three-phase master plan exceeding \$500 million, now in design on Phase Three, spanning advance contracting for base isolation, contract development, contractor and design-professional procurement and replacement, administration, closeout, and dispute resolution.

## Five Sanitation Districts – \$2 Billion Capital Improvement Program

Wastewater Treatment. Represented five public entities against two large municipalities in a multi-phased administrative proceeding over a complex contractual dispute concerning a contested \$2 billion capital improvement program for the largest wastewater treatment facility in the western United States.

## Alameda County Transportation Commission – Toll Services

### Provider Default Termination and Arbitration (Two East Bay DBOM Toll Road Systems)

Meyers Nave represented Alameda CTC in a dispute with its toll services provider on two design-build-operate-maintain toll road systems on two separate East Bay highways. The Commission terminated the contractor's right to proceed under both contracts after substantial delays, and the contractor asserted counterclaims in arbitration seeking damages for work performed prior to termination. The firm represented the Commission in all aspects of the termination decision and throughout the arbitration, took and defended 19 depositions, defeated a motion for summary adjudication, and developed substantial evidence supporting the termination. The matter settled weeks before the arbitration commenced on terms favorable to the Commission.

## California Department of Water Resources – Dyer Reservoir

Defense of \$14 million in delay, differing-site-conditions, and lost-productivity claims through State Contract Act arbitration and 32 days of testimony; the trial court's ruling granting a full defense on contractor-licensing grounds was reversed on appeal, and the matter settled.

## A California Transit Agency – Tunneling Contractor Dispute – Transit Agency Tunnel Boring Litigation (Differing Site Conditions,

## Chemical Grouting)

Defended a transit agency in litigation involving competing claims brought by a tunneling contractor, and the agency's own cross-claims. The action involved disputes over differing site conditions, defective specifications, delay, liquidated damages, and chemical grouting costs.

## City of Monterey – Convention Center Renovation

Summary judgment on contractor delay and disruption claims in the eight figures shortly before trial, with recoveries of attorneys' fees, costs, retention, and subcontractor listing law penalties; the ruling was reversed on appeal and the matter continues on remand.

## A Public Bridge Owner – Contractor Default & Surety Recovery

Guided a public owner through a bridge project, including the default and termination of the general contractor at the project's midpoint, and the recovery effort against the performance bond surety and the contractor through three years of litigation.

## City of Hayward – State Route 238 Reconstruction

Summary judgment ending a contractor's eight-figure affirmative claims on the \$60 million highway contract by enforcing the contract's administrative dispute procedures, with the City retaining the contract retention.

## Santa Clara Valley Water District – Rinconada Water Treatment Plant

Roughly 1,000 days of claimed owner-caused delay denied in full before the Disputes Review Board across four time-impact-analysis claims, with more than \$4.5 million later recovered on related design claims.

## City of Santa Barbara – Estero Wastewater Treatment Plant

A month-long, expert-driven jury trial over the negligent design of a replacement tertiary filtration system produced a \$2.25 million verdict, with total recovery by settlements exceeding \$2.5 million.

## City College of San Francisco – Child Development Center

Recovered \$4.8 million, 98% of the demand, for construction defects that rendered the new facility a total loss.

## El Dorado Irrigation District – Mill Creek to Bull Tunnel Jury Trial

Tried to jury verdict a dispute arising from delayed completion and an irregular completed tunnel on the District's Project 184 hydroelectric water conveyance, one of the rare water-conveyance construction disputes to reach a jury.