



A not-for-profit organization owned and operated by its member schools and community colleges.

Winter-Spring 2011

# Construction Connection

*Risk Management Insight for Your Campus Construction Needs!*

## Message from the SEWUP Board

It was a very busy and successful 2010 for the Statewide Educational Wrap Program Joint Powers Authority (SEWUP). We far exceed all construction volume projections by 30% in campus construction! As a board, we renewed the program with lower preferred rates, broader coverages and returned millions back to the members who participated in the Phase I of our funded high deductible program! Member districts have enjoyed these huge benefits of this program while facing and experiencing the current and uncertain economic times ahead!

As a dynamic and conscientious board, we conducted a Strategic Planning Session in December 2010 as a continued effort to plan for the future. In preparation for the Strategic Planning Session, a S.W.O.T. (strengths, weaknesses, threats and opportunities) questionnaire was distributed to member districts for their input on SEWUP. Interviews then were given by an independent consultant to the members of the board. The independent consultant found that three strong and consistent themes emerged from the interviews as captured by these quotes from members:

1. **“What is the step-by-step process for using SEWUP?”** Members want to know more about SEWUP, including data on processes, coverages, marketing, and costs. Several members requested a step-by-step process diagram.
2. **“Service is amazing.”** Members had virtually no operational concerns or programmatic changes to suggest to SEWUP! They expressed in various ways that the organization is operating efficiently, service is excellent, and that there is no better value for insuring construction!
3. **“Good program - but how do we get the word out? I really don’t know why more people don’t use it.”** Members spent the most time during interviews puzzled as to why more Districts’ don’t use the program. A desire to focus on increasing participation determined the Strategic Planning meetings focus.

As a result of these interviews, the board was taken through an in-depth presentation on SEWUP and its processes compared to the traditional approach of insuring your projects. The board also reviewed passed decisions and program structures and looked ahead and set goals for the upcoming years. All in all it was a successful and productive strategic planning session.

Please feel free to contact any the SEWUP board members you’ll find listed on page #2. We welcome the opportunity to share SEWUP with you so you also may also enjoy in our success!



*Rocky Bonura  
Director of Business Services  
El Camino CCD*



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**For more information, contact Sharon Iburg**  
[siburg@keen.com](mailto:siburg@keen.com)



## 2009/2010 Officers:

**President - Terry McHenry**  
PAJARO VALLEY USD

**Secretary - Harold Pierre**  
SAUGUS USD

**Vice President - Gary Matsumoto**  
HACIENDA-LA PUENTE USD

**Treasurer - Rocky Bonura**  
EL CAMINO CCD

## SEWUP Board Members

Mr. Terry McHenry  
Associate to the Superintendent  
PAJARO VALLEY USD

Mr. Harold J. Pierre  
Director of Facilities  
SAUGUS USD

Ms. V-Anne Chernock  
Director of Modernization  
MARIN CCD

Mr. Mike Collins  
Director, Risk Services  
LONG BEACH CCD

Ms. Elsa Esqueda  
Director of Facilities  
COACHELLA VALLEY USD

Mr. Rocky Bonura  
Director, Business Services  
EL CAMINO CCD

Mr. Dennis Nugent  
Executive Director, Facilities  
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Mr. Christopher Learned  
Asst. Superintendent Business Services  
ACALANES UHSD

Mr. Gary Matsumoto, Ed.D  
Associate Super., Business Services  
HACIENDA LA PUENTE USD

## What is SEWUP – And what can it do for my District?

The Statewide Educational Wrap Up program is an Owner Controlled Insurance Program (OCIP) designed to insure risks associated with your School construction projects.

It provides you with:

- Uniformity of Coverage
- Dedicated project limits
- 10 years completed operations unified defense
- Local contractor participation
- Reduced administrative burden on district staff
- Safer work-sites through enhanced safety oversight
- Claims oversight
- Potential savings



Statewide Educational Wrap Up Program

# SEWUP Member Projects



*Fontana USD Jarupa Hills High School  
CM Multi Prime: Neff Construction*



*Palomar CCD Multi-Disciplinary Instructional Building  
CM Multi-Prime: C.W. Driver*



*New Pittsburg High School Administration Building  
GC: S.J. Amoroso  
CM: RGM & Associates*



*San Mateo College Building 10 Exterior Stairs  
GC: McCarthy Builders  
CM: Swinerton Management & Consulting*



*Palomar CCD Industrial Technical Center  
GC: James Corporation of California  
CM: Gilbane*



*Feather River College, Student Learning Center  
CM Multi Prime: Counterpoint*



*Marin CCD Kentfield campus demolition for  
New Science & Math Central Plant  
GC: Lathrop  
CM: Swinerton Management & Consulting*



*Palm Desert High School Renovation  
CM: Multi Prime: Ledesma*

**GC: General Contractor**

**CM: Construction Manager**

# SEWUP Safety Recognition Awards

The SEWUP Safety Award is given to SEWUP District members and their construction teams who demonstrate a commitment to safety and have projects that meet the following criteria:

- Minimum Project Construction Value of \$10 million
- Workers' Compensation Loss Ratio of less than 10%
- General Liability Loss Ratio of less than 5%
- Endorsement by the assigned SEWUP Loss Control Consultant

## SEWUP Safety Recognition Awards Plaque Recipients

### **Marin CCD: Indian Valley Campus**

- Presentation Date: December 14, 2010
- Original CV: \$13,288,000
- Recipients: Di Giorgio Construction, Swinerton Management & Consulting and Marin Community College District



*Indian Valley Campus Site Walk*

### **San Mateo CCD: Skyline College CIP 2**

- Presentation Date: January 26, 2011
- Original CV: \$48,324,000
- Recipients: Hensel Phelps Construction, Swinerton Management & Consulting and San Mateo Community College District



*Owen Olson; Hensel Phelps, JoAnn Campus; Keenan*

### **San Mateo CCD: College of San Mateo CIP 2**

- Presentation Date: January 26, 2011
- Original CV: \$127,690,000
- Recipients: McCarthy Builders, Swinerton Management & Consulting and San Mateo Community College District



*McCarthy Builders San Mateo CCD CIP 2 Design Build Team*



*Jose Nunez; SMCCD, Jack Herbert; Swinerton, JoAnn Campus; Keenan, Mario Galeano; Swinerton, Sharon Iburg; Keenan*



*Jose Nunez; SMCCD, JoAnn Campus; Keenan*

**Congratulations to our latest SEWUP Safety Award Recipients and to their continued success!**

# Safety Concerns

By John Rodriguez, ARM, CHST

## Zero Lost Time Accident! Coast Community College District

Golden West College Learning Resource Center Project Nears Completion. The project was rolled out under a CM Multiple-Prime Contract delivery method consisting of 10 bid packages. In all, there were over 75 contractors and subs of all tiers enrolled working on the project and also enrolled in the SEWUP program. The structure is a 55k square foot three story building valued at \$23M.

Like many other multiple prime contracts; coordination, schedule, and budget are challenges that continue to be faced by the District, Construction Manager and all contractors involved in this project. With all these challenges, it is easy for safety to be overlooked.

URS proved that safety remains a top priority and with their leadership and contractors continue to maintain a high level of safety awareness. With a lot of hard work and a little luck, this project has no lost time accidents!

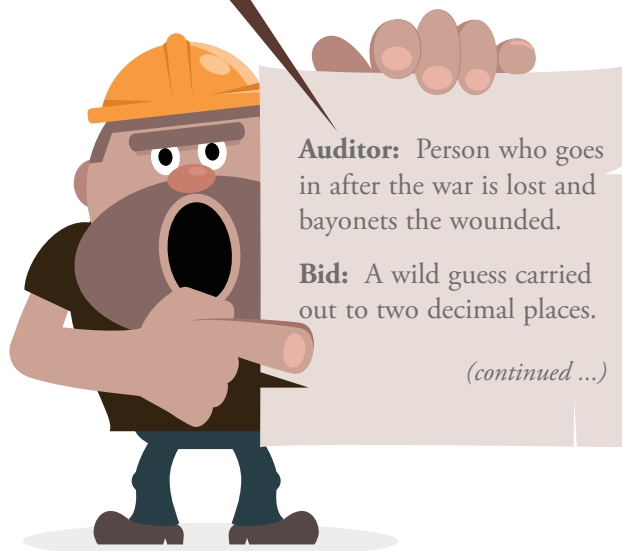
There are many who can share in this success, however, URS continues to address project safety in the office and more importantly out in the field.



Golden West College Learning Resource Center

To all involved in this project, kudos and continue the great work.

### Construction Terminology



**Auditor:** Person who goes in after the war is lost and bayonets the wounded.

**Bid:** A wild guess carried out to two decimal places.

*(continued ...)*

**Bid Opening:** A poker game in which the losing hand wins.

**Completion Date:** The point at which liquidated damages begin.

**Contractor:** A gambler who never gets to shuffle, cut or deal.

**Critical Path Method:** A management technique for losing your shirt under perfect control.

**Delayed Payment:** A tourniquet applied at the pockets.

**Engineer's Estimate:** The cost of construction in heaven.

**Lawyer:** Person who goes in after the auditors to strip the bodies.

**Liquidated Damages:** A penalty for failing to achieve the impossible.

**Low Bidder:** A contractor who is wondering what he left out.

**OSHA:** A protective coating made by half-baking a mixture of fine print, red tape, split hairs and baloney Strike - An effort to increase egg production by strangling the chicken.

**Project Manager:** The conductor of an orchestra in which every musician is in a different union.

# SEWUP Technical Corner

By Sharon Iburg

## SEWUP Insures your Construction Projects Today and for the Future

### A Completed Operations Case Study of a Construction Defect

#### The District

A large unified District contracts with a General Contractor to build a 700 ADA elementary school – multiple buildings, construction value \$10M. The District decides to implement an Owner Controlled Insurance Program called the Statewide Educational Wrap Up Program (SEWUP).

Those of you who are involved in construction will know that there are projects that run smoothly but there are those that do not. This project was one of the latter. Since the details are not relevant to this study, just be aware that there were ongoing squabbles between all parties – District, GC, and Subs – regarding specification compliance, work quality, payment patterns, change orders, and overall communication. Some of those issues are still not resolved. Work was in fact still being done on punch-list items when the school opened in September. The District had planned for it to be open for the new school year, and was understandably eager to stick to that plan.

#### The Challenge

The following winter was a wet one, particularly through late February and March. After the March storm, the new school suffered significant resultant external and internal water damage. There were leaks from windows, a/c units, parapet walls and doors. A number of classrooms were unusable and all parties – students, staff, and parents – were inconvenienced and concerned.

In such cases there will normally follow differing versions of the same pattern: lawsuits, countersuits, two or more sets of attorneys and experts, independent testing, consultants, involvement of any number of insurance companies, legal fees and a relentlessly growing price tag. There may be a settlement eventually, but nobody will win, least of all a teacher anxious to get back to a dry classroom, a disgruntled parent wondering why part of a completed campus is unusable or a small unpaid local sub-contractor who may go out of business as a result.

#### The Real Work

As noted above, the project was enrolled in SEWUP. Fortunately so, for when the District's water damage claim against the contractor was submitted to SEWUP's GL carrier, it was given defense under the policy's Completed Operations Coverage (post completion). This coverage provides indemnification on completed operations for damages resulting from an insured's work, even if, as in this case, the damages may have resulted from defective workmanship or materials. Under wrap-ups like SEWUP, remember, the contractor is an insured.

#### The Results

Since the carrier was able to focus solely on the problem - correcting the resulting damages and the work that caused them – and not all the other extenuating circumstances focused on 'blame' - they were able to agree with the District on a fair make-good offer, and the District was able to make the needed repairs and return their school to full functionality.

Remember the Completed Operations Coverage offered by SEWUP extends a full ten years beyond the Notification of Completion. Also, there has to be 'damage' for the coverage to trigger. Bad workmanship is a pain, but by itself with no resulting damage, it is not covered.

#### The Future

Many standard general liability policies have either 'Completed Operations' or 'Faulty Workmanship' exclusions. Even if the contractor does initially show evidence of the coverage, this only shows the limits available. It will be up to the District to monitor that the policies are maintained throughout the ten-year tail.

*For more information on how SEWUP can benefit your district and reduce the amount of your general funds from being impacted by uninsured risks, please contact Sharon Iburg at 408.441.0754.*

\* Summary provided for general information only. Coverage is subject to policy terms and conditions.

# New Legislative Updates



**Passed SB 972:** The law already prevents a public agency from having a design professional contractually indemnify it for anything other than the design professional's own tortious conduct (negligence, recklessness or willful misconduct.). This bill closes a loophole and prevents the public agency from having a design professional contractually agree to defend it, unless again it is from the design professional's own tortious conduct. The bill applies prospectively to contracts entered or amended on or after January 1, 2011 and is deemed to be incorporated into contracts entered into after that date.

This bill passed along with other legislation in the last few years as a response to what has been seen as builders unfairly shifting risk to subcontractors and design professionals.

Stay tuned in our next newsletter for more information about this important topic.

**AB 2036:** Requires a public entity to promptly tender its defense to the original contractor in any litigation to enforce the stop notice, and, if the contractor accepts that tender, requires the public entity to reduce the amount withheld to the amount necessary to answer the claim stated in the stop notice. **Chaptered 9-29-2010.**

**AB 2419 & SB 1254:** Would authorize the registrar of contractors to issue a stop order to any unlicensed contractor who has failed to secure workers' compensation insurance coverage for his or her employees. **AB 2419 Vetoed 9/30/10 SB 1254 Chaptered 9-30-2010.**

**SB 1227:** This bill would transfer the duties of the Department of General Services with regard to design and construction of school buildings, as defined to include buildings used for elementary, secondary, and community college purposes, to the building department of the appropriate local jurisdiction. **Did not pass.**

**AB 2390:** Would state the intent of the Legislature to enact legislation that would require a contracting firm and a subcontracting firm to have a valid license and workers' compensation insurance at the time of submission of a bid for a public works construction project. **Did not pass.**

**ACA 33:** Would require a 2/3 vote for approval of a ballot initiative for state general obligation bonds. Could affect schools construction funding in future years. **Did not pass.**

## Upcoming Events

### **C.A.S.H. 32nd Annual Conference**

February 21-23, 2011

Sacramento Convention Center Exhibit Hall A

Come check us out! We will be located in space # 333.

### **California Community Colleges Purchasing Conference 2011**

March 28 - March 30, 2011 at The Catamaran Resort in San Diego

Risk Management Presentation: We will explore the risks associated with contractors, consultants, service providers and vendors.

### **CCFC 18th Annual Conference**

October 31 - November 2, 2011

Sheraton Grand Hotel and Sacramento Convention Center



www.sewup.org

**SEWUP Mission**  
Provide a comprehensive, safety-  
focused, risk-controlled, cost effective  
construction insurance program for  
California public education agencies.



General Liability, Pollution  
Liability, Workers' Compensation,  
Excess Professional, Builders  
Risk, Insurance Administration,  
Claims, Safety and Loss Control

Risk Controlled • Cost Effective • Safety Focused



Statewide Educational Wrap Up Program

2355 Crenshaw Blvd.  
Suite 200  
Torrance, CA 90501

## Construction Connection Winter-Spring 2011!

### Inside you'll find:

- SEWUP Safety Awards
- Construction Defect Case Study
- Legislative Updates

For more information contact:  
Sharon Iburg at 408.441.0754 or  
email at siburg@keenan.com