

April 28, 2020

The Honorable Gavin Newsom
Governor of California
1303 10th Street, Suite 1173
Sacramento, CA 95814

VIA FACSIMILE: (916) 558-3160

Dear Governor Newsom:

The above listed construction organizations appreciate your leadership and efforts to address the many policy issues surrounding the COVID-19 pandemic, including policies to protect individuals who remain at work in industries deemed essential. It is our understanding that your administration is contemplating a policy that would presume any essential employee that contracts COVID-19 to have an occupational disease arising out of and in the course of employment. This would create a very broad use of the workers' compensation system to compensate employees who contract COVID-19 in California and in doing so, would negatively impact the construction industry. Furthermore, there are broader concerns that the presumption rule would be overarching and open up avenues for plaintiffs to assert claims against contractors under a tort liability principle, further compounding the economic impacts to the contracting community.

The construction industry is keenly interested in the welfare of our workforce. This fact is evident in the extraordinary effort that we have taken to promote, educate and enforce critical COVID-19 jobsite safety practices during the pandemic. Our commitment to protecting our workforce has resulted in a proven track record that our industry can work safely through this crisis. However, this success has not come without costs. Enhanced safety procedures have driven up project expenses and slashed margins. As construction is primarily performed under fixed price contracts, our industry is struggling with these unforeseen costs. Placing a presumption that a worker has contracted COVID-19 on the job, on top of the industry's heavy investment in jobsite policies and practices to ensure that they do not, will cause severe financial harm to an industry that is sparing no expense in protecting its workforce.

Before any legislation, regulations, or guidance is crafted to create a presumption that a worker has contracted the disease on the job, we respectfully suggest that the policy be limited to the brave frontline medical professionals and public safety personnel who are face to face with the virus daily. Peace officers, firefighters, paramedics, emergency medical technicians, nurses and health care workers are unfortunately subject to increased exposure to the virus as the nature of their jobs don't allow them to follow the same enhanced safety procedures that we are able to provide to our workforce on our jobsites.

For these reasons we would ask that any policy directive from you in this area not include all workers deemed essential, but be limited in scope to healthcare personnel, medical professionals and public safety personnel.

Sincerely,



Mark Breslin
CEO, UCON



Denise K. Cooper
President, SCCA



Ray M. Baca
Executive Director, ECA



Russ Snyder
Executive Director, CalAPA



Gary Hambly
CEO, CALCIMA