

CONSENSUSDOCS, LLC COMPETES WITH EJCDC AND AIA

In 2007, the Engineers Joint Contract Documents Committee issued a new EJCDC C-700, Standard General Conditions of the Construction Contract, and the American Institute of Architects issued a new AIA Document A201, General Conditions of the Contract for Construction. Also in 2007, a new compilation of documents known as ConsensusDOCS were published, including ConsensusDOCS 200, Standard Form Agreement and General Conditions Between Owner and Contractor.

ConsensusDOCS is sponsored by 21 endorsing organizations consisting of National Association of State Facilities Administrators, The Construction Users Roundtable, Construction Owners Association of America, Associated General Contractors of America, Associated Specialty Contractors, Inc., Construction Industry Round Table, American Subcontractors Association, Inc., Associated Builders and Contractors, Inc., Lean Construction Institute, Finishing Contractors Association, Mechanical Contractors Association of America, National Electrical Contractors Association, National Insulation Association, National Roofing Contractors Association, Painting and Decorating Contractors of America, Plumbing Heating Cooling Contractors Association, National Subcontractors Alliance, Sheet Metal and Air Conditioning Contractors' National Association, Association of the Wall and Ceiling Industry, National Association of Electrical Distributors, National Association of Surety Bond Producers, and The Surety & Fidelity Association of America. The American Institute of Architects (AIA) is not among the endorsing organizations. Nor is the Engineers Joint Contract Documents Committee (EJCDC). Design professionals, owners of real estate developments, lawyers, insurance industry representatives and others who advise and consult in design and construction are naturally interested in what the objective of ConsensusDOCS is.

AIA and EJCDC documents have been criticized from time to time in the past for favoring the design professions, although AGC has been a participant on the EJCDC. AIA has published its

General Conditions of the Contract for Construction for a century and has connected the document with the AIA contracts between owner and architect, between architect and subconsultant, between owner and contractor, and between contractor and subcontractor. Given the substantial number of published contracts by AIA and EJCDC, one wonders why a new organization was formed known as ConsensusDOCS, LLC, to draft and publish more than 70 ConsensusDOCS. Its website is www.consensusdocs.org.

The ConsensusDOCS Guidebook published by ConsensusDOCS, LLC can be found at the following website: <http://www.agc.org/galleries/contracts/AGC-only%20Guidebook0408.pdf>. In the introduction to the ConsensusDOCS Guidebook, ConsensusDOCS, LLC states, *inter alia*,

If you are looking for documents that are Pro-Owner or Pro-Contractor you should not use these documents. ConsensusDOCS contracts and forms attempt to fairly and appropriately allocate risks to the Party in the position to manage and control the risk. The practices articulated in the documents are forward-thinking, and may not always represent the status quo, but rather a better path forward. The goal of the multi-disciplined drafters was to create documents that best place the Parties to a construction contract in a position to complete a project on time and on budget with the highest possibility of avoiding claims.

Time will tell whether the thoughts expressed by ConsensusDOCS, LLC in its Guidebook prove to be sound. In any event, AIA, EJCDC and ConsensusDOCS, LLC are now all in the business of publishing design and construction contracts.

There are some interesting comparisons between EJCDC C-700, 2007 edition, AIA Document A201, 2007 edition, and ConsensusDOCS 200. I shall review some of those comparisons in the next issue of this publication.