



2021 THE CONSTRUCTION ASSOCIATION CONVENTION



AGC

THE CONSTRUCTION
ASSOCIATION

***How to Keep Your Contract Negotiations
Out of the Mud***

Panel

Kristen Wendler
Farhang & Medcoff (AZ)

Jeff Forbes
Beck Group (TX)

Levi Barrett
Peckar & Abramson (NY)

Bryan Kelley
Balfour Beatty Construction (WA)



Earn CE hours for this Session

Participants must:

1. Sign in using attendance sheet in the back of the room.
2. Attend at least 95% of the session.
3. Complete the session and post-program evaluation.

Additional instructions will be emailed to attendees requesting CE credits. If requesting AIA credits, please provide your AIA number so we can report your attendance. For questions regarding continuing education credits, please contact **Jo-Anne Torres**, Manager of Professional Development and Continuing Education, at jo-anne.torres@agc.org, or (703) 837-5360.



Earn CE hours for this Session



1.0 AIC CPD Credit | AGC of America has been approved to offer Continuing Professional Development (CPD) credits for qualifying programs by the [American Institute of Constructors](#) (AIC).



1.0 AIA Learning Unit (LU) | The Associated General Contractors of America is a registered provider of AIA-approved continuing education under Provider Number G523. All registered AIA CES Providers must comply with the AIA Standards for Continuing Education Programs.



AGC of America is registered with the National Association of State Boards of Accountancy (NASBA) as a sponsor of continuing professional education on the [National Registry of CPE Sponsors](#). This session is designated for **1.0 CPE credit** in the field of Business Law.



Learning Objectives

By the end of this session, participants will be able to:

1. Critically evaluate how they approach contract negotiations.
2. Rethink negotiation strategy.
3. Focus on concepts/needs, with less initial emphasis on final language.
4. Avoid drag caused by stalled or failed negotiations.



Question:

Is how we negotiate > what we negotiate?



How to Keep Your Contract Negotiations Out of the Mud



Key concepts to success:

- Recognize: Who is asking?
- Reduce: What is the concept?
- Relate: Show you understand their perspective; work on how to collaboratively explain yours.



An (Almost) Failed Negotiation

"Everything is negotiable. Whether or not the negotiation is easy is another thing."





Recent Examples (Levi)

- Design Risk
- Price Escalation



Recent Examples (Kristen)

- Form of Contract
- Delay/Liquidated Damages



Recent Examples (Bryan)

- Defense and Indemnity
- Consequential Damages



Recent Examples (Jeff)

- Retention Carve-Outs
- Time and Cost Adjustment



Key Takeaways

- Always start simple and at the beginning. Why is this important?
- Spend more time aligning, less time writing. Don't just trade redlines.
- Be fair. Avoid asks that go too far or misalign with concepts/needs.
- You are on audition! Show the same collaboration you would during the work.
- Coach your teams to view negotiation this way. Anyone can do it.

Questions?



How to Keep Your Contract Negotiations Out of the Mud