

FASA's

# THE CONTRACTOR'S Compass

JUNE 2020

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## Keep Your Eye on the Ball

- ◆ Changing an Age-Old Mindset About Fall Protection  
*by Lee Hart, President, Safety by Design*
- ◆ Learning How to Adjust and Adapt in a Post-COVID-19 Construction World  
*by Mark Bergman, construction risk engineering manager, Zurich N.A., and Rick Zellen, construction senior risk engineering consultant, Zurich N.A.*
- ◆ Revenue Protection in the Time of COVID-19: 3 Tips for Contractors  
*by Patrick Hogan, CEO, Handle.com*
- ◆ How to Keep Your Eye on the Ball in the COVID-19 Era  
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- ◆ What Is Your Company's Post-COVID-19 Liquidity Strategy?  
*by Tyler Pare, principal and performance practice leader, FMI; and Alex Miller, managing director, FMI*



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**EDITORIAL PURPOSE**

The Contractor's Compass is the monthly educational journal of the Foundation of the American Subcontractors Association, Inc. (FASA) and part of FASA's Contractors' Knowledge Network. The journal is designed to equip construction subcontractors with the ideas, tools and tactics they need to thrive.

The views expressed by contributors to The Contractor's Compass do not necessarily represent the opinions of FASA or the American Subcontractors Association, Inc. (ASA).

**MISSION**

FASA was established in 1987 as a 501(c)(3) tax-exempt entity to support research, education and public awareness. Through its Contractors' Knowledge Network, FASA is committed to forging and exploring the critical issues shaping subcontractors and specialty trade contractors in the construction industry. FASA provides subcontractors and specialty trade contractors with the tools, techniques, practices, attitude and confidence they need to thrive and excel in the construction industry.

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**EDITORIAL SUBMISSIONS**

Contributing authors are encouraged to submit a brief abstract of their article idea before providing a full-length feature article. Feature articles should be no longer than 1,500 words and comply with The Associated Press style guidelines. Article submissions become the property of ASA and FASA. The editor reserves the right to edit all accepted editorial submissions for length, style, clarity, spelling and punctuation. Send abstracts and submissions for The Contractor's Compass to [communications@asa-hq.com](mailto:communications@asa-hq.com).

**ABOUT ASA**

ASA is a nonprofit trade association of union and non-union subcontractors and suppliers. Through a nationwide network of local and state ASA associations, members receive information and education on relevant business issues and work together to protect their rights as an integral part of the construction team. For more information about becoming an ASA member, contact ASA at 1004 Duke St., Alexandria, VA 22314-3588, (703) 684-3450, [membership@asa-hq.com](mailto:membership@asa-hq.com), or visit the ASA Web site, [www.asaonline.com](http://www.asaonline.com).

**LAYOUT**

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# PRESIDENT'S LETTER



Dear ASA Members,

What a year! It is hard to believe that a year has gone by since I began my term as your ASA President, and I am so proud of all of us as an organization. We have gone through so much together, and I am confident that each of us is stronger on the other side.

I would first like to thank the members of ASA. Your support has made everything possible. One of the best parts of being a leader within the American Subcontractors Association is the ability to meet with, talk to, and learn from the incredible people who are a part of this organization. You have all taught me so much, and I thank you for that.

We have accomplished so much together. We walked the halls of Washington, D.C, back in October to continue the fight for the issues important to subcontractors. We've seen legislative victories in several states that help protect our businesses. We stood together during SUBExcel in Las Vegas, learning together as well as planning for the future. I am so excited to see where the future takes the members of ASA.

I would also like to thank the members of the Board of Directors, as well as all of the leadership within ASA for the opportunity to lead and serve as the 2019-2020 ASA President. You all believed in me and allowed me to lead with confidence. I would like to thank all of the presidents who came before me for providing a stellar example of how to lead this organization through a variety of times and circumstances, and I appreciate the individual stamp each one put on ASA. Thank you for allowing me to put my own on it as well.

Looking to the future, I know we are in good hands. Brian Cooper is someone I admire and respect, and I am certain that his transition to the office of ASA President will be a smooth one. I ask that each of you stand behind him as you have stood behind me. The American Subcontractors Association has an incredible year ahead of it, and I'm excited to see where Brian takes this organization.

From the bottom of my heart, thank you.

Anthony Brooks  
ASA President 2019-2020



# CONTRACTOR COMMUNITY

## Guidance for Opening Up America

The Associated Press obtained a 63-page document titled "Guidance for Opening Up America Again Framework" that is more detailed than other, previously reported segments of the guidance. The source was granted anonymity because they were not authorized to share the document with the press. ASA would like to share this information with its members. <https://assets.documentcloud.org/documents/6889330/Guidance-for-Opening-Up-America-Again-Framework.pdf>.

## National Women In Roofing and RoofersCoffeeShop Launch Industry Recruitment Opportunity



National Women in Roofing (NWiR) and RoofersCoffeeShop have partnered to launch a recruiting campaign for the roofing industry. The campaign allows companies to submit job postings for Roofers Coffeeshop to share. Through opening a wide variety of job opportunities at companies to viewers, the partnership will be able to attract new talent and offer opportunities for companies to increase visibility to their job postings. Any company in roofing can submit job opportunities here: [bit.ly/roofingcareers](http://bit.ly/roofingcareers). Contact: Ellen Thorp at [ellen@nationalwomeninroofing.org](mailto:ellen@nationalwomeninroofing.org)

or 303-450-3150 for more information.

## NEXT Coalition Launched to Enhance Health and Safety in Construction

While the COVID-19 pandemic has forced shutdowns of many global businesses, a coalition of leading critical infrastructure and construction companies has banded together to launch the "NEXT Coalition." Based on the idea of the "next normal," the coalition intends to promote and share industry safety best practices to help mitigate the impact of this pandemic or a future health crisis. The peer companies in the NEXT Coalition combine established cultures of safety, operational excellence, and innovation to accelerate impactful change with the industry and beyond. ***For more information, please read the article on page 18.***

## ASA Weighs in with the Senate Labor Committee Leadership on OSHA COVID-19 ETS

ASA, along with the Construction Industry Safety Coalition (CISC), in a letter to Senate Labor Committee Leadership expressed their concern for proposals to compel the Occupational Safety and Health Administration (OSHA) to issue an emergency temporary standard (ETS) in response to the COVID-19 pandemic.

The CISC recognizes the potential hazards of COVID-19 and strongly believes that employers should take steps to ensure that employees are protected. Early in the pandemic, the CISC developed and distributed comprehensive materials to our member companies for communicating proper safety, distancing, and disinfecting measures to workers on the job site to reduce the risk of

exposure. This includes a Coronavirus Preparedness and Response Plan for Construction and customizable blueprint for construction businesses to use in establishing worksite safety protocols.

Additionally, our coalition member groups independently hosted safety stand-downs on COVID-19 throughout the month of April, providing employers with communications and safety procedures in both English and Spanish. However, the CISC is greatly concerned by proposals such as H.R. 6559, the COVID-19 Protect Every Worker Act that would compel OSHA to issue an emergency temporary standard and subsequent permanent standard for infectious diseases. This bill, and similar language adopted in the House-passed Heroes Act, puts the cart before the horse, mandating the issuance of a new standard before OSHA has had the opportunity collect and analyze data on the prevalence of workplace exposure to and contraction of COVID-19.

Finally, the CISC urged the Labor Committee's Leadership to ensure OSHA, the CDC, and all other appropriate agency stakeholders first work together to assess the extent to which COVID-19 presents a risk in various workplaces before taking any action, including, if necessary, issuance of any infectious disease standard.

## ASA Issues Amicus Brief Opposing OSHA Lawsuit

On May 30, 2020, ASA joined the National Home Builders, the ABC, and some members of the Construction Industry Safety Coalition, in filing an amicus curiae brief in opposition to the AFLCIO's Petition for a Writ of Mandamus to compel the Occupational Safety and Health Administration ("OSHA") to issue an emergency temporary standard for

infectious diseases ("ETS"), in order to protect employees from SARS-CoV-2 ("COVID-19"). Per the brief, "guidance on how to maintain the spread of COVID-19 in the aviation industry would naturally be quite different from guidance directed at the banking industry, or the construction industry."

On May 18th, the AFL-CIO sued OSHA to force the agency to issue an Emergency Temporary Standard (ETS) for Infectious Diseases/COVID-19 covering all employees. The petition cites general data on COVID-19 cases and highlights certain industries: healthcare; customer-facing industries; and meat and poultry processing. Also, the AFL-CIO cites as a framework the CalOSHA airborne transmissible disease standard and a similar standard that has been under development at OSHA for the last few years.

It was important for ASA and the construction industry to participate as an amicus in this case for several reasons:

- The AFL-CIO Petition would be broadly applicable to all workers, but there is no evidence included in the Petition that a significant risk exists in construction or that construction employers are not taking the requisite actions to protect employees. More broadly, the AFL-CIO cites just a few industries, but then extrapolates to say that all industries should be covered.
- Mandating OSHA to put out a COVID-19 standard in thirty days, applicable to all industries, would not allow OSHA to really understand how such a standard would apply in all industries. There would be no time for site visits, stakeholder input, etc.
- It was important for construction to lend a separate voice.

- This is just the first of what will likely be multiple efforts to force OSHA to create a standard.

**[Click here to review the as filed Amicus Brief.](#)**

**[Click here to review the Motion for Leave Amicus Brief.](#)**

## Focus on Fall Prevention

ASA-Houston Chapter is thrilled to be a part of an eight-organization alliance formed to focus on fall prevention in construction during the month of June.

The idea was conceived on an ASA-HC Safety committee call in mid-May (yes, less than three weeks ago) and it quickly grew to seven construction trade organizations wanting to take part in communicating fall prevention to our industry. During the month of June, each organization will communicate information and offer tools to raise fall hazard awareness to stop fall fatalities and injuries in construction.

Watch your email and social media (#fallpreventioncampaign #fallpreventioninconstruction #fallpreventionforyourfamily) throughout this month for information and tools including fall statistics, OSHA videos for falls in construction, video fall prevention toolbox talk, Accessing Safety Knowledge (ASK) sheets, Houston Fall Prevention Alliance toolbox talks, fall prevention jobsite signage and fall safety at home.

June Fall Prevention Month Alliance Organizations

- ASA-Houston Chapter
- ASA-North Texas Chapter
- ASA- San Antonio Chapter
- ASA of Colorado
- ASA of Arizona
- ASA National Organization
- Associated General Contractors

(AGC) Houston

- Colorado Safety Association

## Procore Becomes Platinum Sponsor with Significant Investment in the American Subcontractors Association

*This article is from Procore's blog post dated 5/27/2020.*

As we now know, the COVID-19's impact on construction and our lives will likely last more than a few months. From the start, the key priority for specialty contractors, naturally, has been the safety and well-being of all employees. As we prepare to make the shift from triage to long-term business continuity, Procore is teaming up with the American Subcontractors Association (ASA) and is proud to kick off a new partnership.

The collaboration offers exclusive discounts to association members on Procore's platform through the ASAdvantage affinity program. Our hope is that this will make digital solutions more accessible to teams that are beginning to analyze the full scope of what their people need to be safe and successful.

Our mission is to connect everyone in construction on a global platform — general and specialty contractors alike. With social distancing policies adding a new layer of complexity to projects, Procore is helping empower ASA members to reap the benefits of digital solutions that make safe, productive, and profitable transitions into a post-pandemic world possible.

**[Click here to read the full article.](#)**

## SBA Issues New Rule on Paycheck Protection Program

On May 22, 2020, the Small Business Administration (SBA) released two new interim final rules on the Paycheck Protection Program (PPP) clarifying

some aspects of the program including general eligibility qualifications and payback provisions. One rule addresses the requirements for loan forgiveness and the other outlines PPP loan review procedures and related borrower and lender responsibilities. With the first funds disbursed under the PPP on April 3, the first 56-day period of payroll protection is expected to end this week for the first batch of loan recipients. [Click here for highlights of the two new rules.](#)

## DOL and IRS Issue Rule to Extend COBRA Deadlines

*This article is from SESCO Management Consultants, ASA's Human Resource Partner. To learn more about this and all of the benefits available to ASA Members, please click here.*

The U.S. Department of Labor ("DOL") and the Internal Revenue Service ("IRS") have issued a Joint Rule to extend certain time frames for group health plans and other welfare and pension plans. Pursuant to the Rule, plans must disregard the period from March 1, 2020 until 60 days after the announced end of the National Emergency related to the COVID-19 outbreak (which is, at this time, an undetermined date). In the Rule, this period is referred to as the "Outbreak Period."

The Rule provides that this relief applies in determining such deadlines as:

- The 60-day election period for COBRA continuation coverage
  - The date for making COBRA premium payments; and
  - The date for individuals to notify the plan of a qualifying event.
- The Rule provides several examples

of how disregarding the "Outbreak Period" would impact these deadlines. One such example is the situation where an employee has a reduction of hours below what is necessary to meet the group health plan eligibility requirements. If that employee was provided a COBRA election notice on April 1, 2020, what is the deadline for the employee to elect COBRA? The due date will be 60 days after the announced end of the National Emergency. In the Rule, the DOL and IRS used a hypothetical end date of June 29, 2020 which would make the COBRA election notice due on August 28, 2020.

[Click here for the full article.](#)

## CDC Guidelines for Employers

The CDC has issued guidance on office reopening and their recommendations include opening windows; banning communal seating areas, eliminating coffee makers, water coolers, and bulk snacks; commuters should drive to work by themselves instead of car-pooling or using public transit; workers' temperature and symptom checks upon arrival; face coverings should be worn at all times; desks should be six feet apart or erecting plastic barriers if that is not possible; no handshakes or fist bumps; and limited use of elevators to maintain social distancing. [The CDC guidance can be found here.](#)

## ASA Coronavirus Resource Guide

The Center for Disease Control (CDC) is responding to an outbreak of respiratory disease caused by a

novel coronavirus (COVID-19) that was first detected in China and has now emerged in almost 90 locations internationally, including 500 confirmed cases within the United States as of March 9, 2020. With the complete clinical picture of COVID-19 not fully known along with the CDC's expectation that the number of confirmed cases will continue to rise, members of the American Subcontractors Association (ASA) may have concerns regarding the disease and how to handle employment matters during this outbreak. As the situation is emerging and continually evolving, ASA will monitor all federal agency developments and guidance to supply our members with the most up to date information available. The ASA has collected numerous materials from a wide variety of sources and developed this Coronavirus Resource Guide to provide our members with a comprehensive resource to best prepare for employment disruptions as COVID-19 cases continue to be discovered.

### [Click Here to Download the Full ASA Coronavirus Resource Guide](#)

ASA has also put together the **ASA Coronavirus Employer Guide**. To access the MEMBERS ONLY ASA Info Hub:

1. Go to the Member Login Page.
2. If you need a Username and Password, create an account.
3. Once logged into the Info Hub, choose "Resources" from the left-hand menu.
4. Choose "COVID-19" from the drop-down menu at the top of your screen.





# Let's move forward together.

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## Changing an Age-Old Mindset About Fall Protection

by Lee Hart, President, Safety by Design

Like so many other things in the last three months, OSHA's national safety stand-down to prevent falls week in the construction industry was put on hold because of the COVID-19 pandemic. OSHA will reschedule the stand-down week for later in the year.

In the meantime, due to the importance of the subject, the ASA-Houston Chapter formed an alliance with seven other industry organizations (ASA National Headquarters, ASA of Colorado,

ASA North Texas Chapter, ASA San Antonio Chapter, ASA of Arizona, AGC Houston Chapter and the Colorado Safety Association) to communicate information and offer tools to raise fall hazard awareness to help stop fall fatalities and injuries in construction during the month of June.

### Fall Facts

There is nothing complicated about fall protection. It's really very simple. Yet falls continue to be the leading cause of fatalities in the Construction industry, and three out of 10 nonfatal injuries are also caused by slips, trips and falls. \*\*\*

In 2018 one in five worker deaths in the US were in construction. The leading causes of private sector worker deaths (excluding highway collisions) in the construction industry were falls.

In 2019 almost one in three OSHA citations were Fall Protection related, which also represented close to 43% of all penalties or \$44,370,964 dollars.

Three fall protection requirements made the top 10 list of the most frequently cited, with more than 9,900 citations written for one or more of the following regulations:

- 1926.501 - Duty to have fall protection was number one on the list,
- 1926.503 - Fall Protection - Training Requirements was number four and
- 926.502 - Fall protection systems criteria and practices was number ten.

\*\*\*

### Changing an Age-Old Mindset

So how far can you safely fall? Most construction workers will tell you 6 feet because that's the threshold at which fall protection is required in the Construction industry. However, one could argue that thought process and say there is no safe distance a human can fall.

There are cases of workers falling less than two feet who lost their life and others who have fallen more than 10 feet and survived (in most cases, not without injury).

So, if we can agree that there's no safe distance someone can fall, then why do falls still top the list of leading causes of death in construction? Why are various fall protection regulations still in the top 10 of the Frequently Most Cited?

The answer may not be so simple. Most workers don't think it will happen to them. They've never fallen before so why worry? They've been doing this work more than 20 years and know how to do it without falling, or they've been ridiculed, criticized, and bullied into thinking they are not "manly" enough if they wear fall protection.

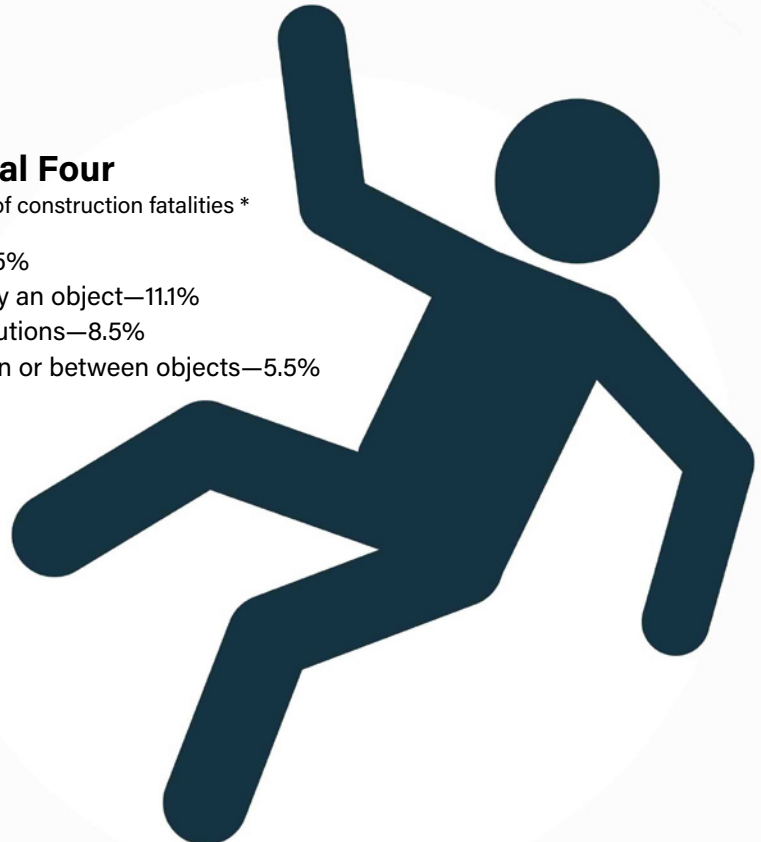
Falls in Construction has been a widespread issue for years. So much so, that there are emphasis programs in place and annual national stand downs that take place in an effort to reduce the number of fall violations, injuries and fatalities.

It's interesting that here we are in 2020 faced with a global pandemic, where we have seen most people behave differently than before the pandemic, in just a matter of weeks, to avoid getting sick and/or spreading the virus. Fall related injuries

### The Fatal Four

Top causes of construction fatalities \*

1. Fall—33.5%
2. Struck by an object—11.1%
3. Electrocutions—8.5%
4. Caught in or between objects—5.5%





and fatalities has been an “epidemic” in Construction for years. Yet workers’ mindsets or behaviors are not changing quickly and consistently enough to drive down the numbers. If workers reacted similarly to fall hazards as they have the coronavirus, we wouldn’t need a Stand Downs or emphasis programs. The difference between the virus and falls is that falls aren’t contagious and whether or not we fall is mostly within our own control.

The global pandemic, and the avalanche of challenges that came along with it including unemployment, business closings, and stay at home orders has been virtually the only thing on people’s minds the last four months.

Construction workers, as an essential business, continue to work and must remain focused on other hazards that have the potential to severely injure or even kill them in a matter of seconds.

Construction workers continue to be exposed to fall hazards, and according to the National Safety Council, construction workers are most at risk for fatal falls from height – more than seven times the rate of other industries.

There are different requirements in the Code of Federal Regulations but let’s just look at the most commonly cited which can be found in 29CFR1926.501(b)(1), which states, “Each employee on a walking/working surface (horizontal and vertical surface) with an unprotected side or edge which is 6 feet (1.8 m) or more above a lower level shall be protected from falling by the use of guardrail systems, safety net systems, or personal fall arrest systems.”

Pretty simple, right? Problem solved, right? Not even close.

How do we change workers and employers’ behaviors and mindset to take what’s required on paper and turn it into action at work? This is where the challenges begin.

## Best Practices

Whether working from a ladder, roof or scaffolding, falls are 100% preventable. But it takes preparation, communication, enforcement, and accountability. Here are some basic best practices Safety by Design recommends our clients include in their written safety program.

### Preparation

- Assess the risk and identify the hazards
- Determine if working from a height is absolutely necessary, or if there is another way to do the task safely.
- Identify the correct type of equipment for the task (i.e. step ladder, extension ladder, aerial lift)
- If PPE is necessary then be sure you identify the correct harness, lanyard or self-retracting lifeline, and most importantly the proper anchorage point
- Be sure you have a rescue plan in place. Ask yourself, if something goes wrong, what will we do?

### Communication

- Conduct a job safety analysis prior to starting work, and include all affected workers
- Clearly state your expectations for completing the task safely
- Ensure workers have an opportunity to ask questions, and have those questions answered
- Remain in communication throughout the task to address unforeseen issues
- Train your workers on the hazards and solutions to avoid injury or death

### Enforcement

- Periodically check on the workers to ensure compliance
- If workers are found not complying with the expectations and guidelines, then immediately stop work and conduct a stand down to re-address those expectations
- If workers refuse to comply then remove them from the exposure

### Accountability

- Hold everyone accountable equally
- Remind workers that they must be accountable for their own safety
- Hold yourself accountable as a supervisor to lead by example

When the coronavirus became a global pandemic, people started wearing masks everywhere they went. It has become an accepted, and in some cases, mandatory practice. Why won’t we treat fall hazards as seriously as the Coronavirus?

We have a cure for fall protection but it’s not as simple as getting a shot in the arm. We need to plan better, train better, implement solutions better, enforce better and most importantly, lead better.

Workers need to do better caring enough about their own safety and the families who depend on them to make the right choices each and every day.

Employers need to ask themselves, what are one or two things I can do to help change the mindset of the workers risking their lives every day to build a better future?

Thomas Edison said, “Our greatest weakness lies in giving up. The most certain way to succeed is always to try one more time.”

We have to keep trying to effect change.

*Organizational safety is in Lee’s blood. With over 21 years in the industry as a safety consultant, Lee brings a wealth of experience to every collaboration. He has worked with clients of all sizes to help ensure the safety of their employees and has drafted and implemented various safety programs throughout his career. Lee Hart teaches the OSHA 30 at the University of Houston for Construction Management Course students. He’s been a guest speaker at events for fortune 500 companies and is considered one of the area’s top experts in construction safety. For more information about Lee Hart and Safety By Design, please visit <https://www.safetybydesigninc.com>*

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\* <https://www.osha.gov/data/commonstats>

\*\* <https://www.bigrentz.com/blog/construction-safety-statistics>

\*\*\* [https://www.osha.gov/pls/imis/citedstandard.naics?p\\_naics=23&p\\_esize=&p\\_state=FEFederal](https://www.osha.gov/pls/imis/citedstandard.naics?p_naics=23&p_esize=&p_state=FEFederal)



# FEATURE

## Learning How to Adjust and Adapt in a Post-COVID-19 Construction World

by Mark Bergman, construction risk engineering manager, Zurich N.A.,  
and Rick Zellen, construction senior risk engineering consultant, Zurich N.A.

### Paving a path forward for suspended and resumed projects.



Construction has always been more unpredictable and perilous than many industries, making agility a basic necessity for contractors and their teams. The COVID-19 pandemic has tested that agility like never before.

Decisions on whether construction work could or should continue during the pandemic have varied by city and state. The interpretation of mandates can depend on the day and person you ask. Relatively early during the coronavirus shutdown, Boston ordered most construction work to stop. New York initially deemed construction essential and then ordered a halt to most work, **instituting fines** up to \$10,000 for those found working on nonessential or nonemergency construction.<sup>1</sup> The city of Austin required all nonessential construction to pause in March, but then in early April, the Texas governor issued an executive order **allowing construction** across the state to continue.<sup>2</sup> Even

where construction was allowed, contractors faced labor shortages as workers had to choose between a paycheck and risks to their personal health.

Contractors are trying to interpret evolving rules and navigate unprecedented challenges while contending with a start-stop-restart scenario—a cycle that heightens an assortment of risks on job sites where work began before the pandemic, then paused. Suspending a construction project isn't as simple as shutting off the lights and locking the doors of an intact building. Restarting will present its own challenges, partly because of what can happen during a hiatus, but also because work practices must be altered to manage ongoing COVID-19 risk.

#### While Crews Are Away...

There's exposure to many elements on a construction job site when a

project is halted for any reason at any stage. Mitigating the risks or handling the fallout can add unanticipated expenses.

To touch on just a few:

- Rain can degrade supports, structures, equipment and materials. It can also cause erosion or flooding on partially excavated sites.
- Wind can blow safety netting, fencing and materials that aren't completely tied down, posing risks to the public.
- Idle sites can be targets for vandalism, theft and arson. The contractor may need a skeleton crew just to keep the site secure. That includes monitoring scaffolding, fencing and netting to ensure it stays in place.
- The contractor must determine how to store or relocate materials or return them to the supplier.



Volatile gases and liquids need to be removed.

- Critical systems such as fire suppression, water pumps and HVAC need to be maintained; utilities may need to be secured or disconnected.
- Thorny payment issues also may need to be addressed and resolved with subcontractors, crews, suppliers and others.

## When Crews Return...

As new COVID-19 cases taper in some cities, there's been ongoing debate about a gradual restart of the whole economy. Many idled engineering and construction firms ask: When can we get back to work? The answer isn't as simple as getting a greenlight from a governor and then pulling open a padlock on a chain-link fence.

Once permission to resume work is granted, any consequences of the idle period require attention and perhaps remediation. Permits and builder's risk policies may have expired. Financing may be affected. Workers and subcontractors may have dropped out of contact or found work elsewhere. There may be breaks in the supply chain; project timeline and work sequencing may be in disarray. These can all drive up costs, especially if demand for labor and materials rises as a widespread resumption of construction takes place.

A primary concern for many contractors is how to best protect their crews' health and safety going forward, especially with the prospect that infection risks could rise again at a later date.

- A study commissioned in Austin found that keeping the city's job sites open during the height of coronavirus transmission could, in a worst-case scenario, **raise construction workers' risk** of hospitalization eightfold.<sup>3</sup> It also

stated that scenario was avoidable through safety practices and provisions that many contractors already adopted if they worked during any part of the shutdown.

- Precautions that promote social distancing and site hygiene include, briefly:
- Suspending canteen trucks and similar services.
- Eliminating all-hands safety meetings and using online training and virtual new-hire orientation.
- Staggering crew start times and breaks and adding shifts.
- Increasing use of off-site and on-site prefabrication.
- Screening employee health at the job site entrance and mandating use of face coverings.
- Enhancing cleaning and disinfecting of the job site, including tools and other high touchpoint areas.

Some of these practices could become part of the new normal for construction, and some aren't that much of a leap from pre-coronavirus best practices.

## Near-Term Planning and Longer-Term Impacts

Before coronavirus, contractors sequenced trade workers for efficiency and safety (e.g., to avoid one trade worker dropping materials or tools on someone working below). This type of sequencing can also help enable six-foot social distance between workers. It's similar with composite crews, where workers from different trades are typically appointed to tidy up for safety reasons at regular intervals.

Now in addition to making sure materials are arranged properly to help prevent slips, trips, falls and other hazards, composite crews may also ensure handwashing facilities are stocked and all areas of the job site are sanitized.

And that's just one piece of the post-COVID-19 puzzle.

The long-term impacts on contractors and how they and their crews perform work are only beginning to unfold. That doesn't mean anyone should sit back with a wait-and-see mentality. It's time for contractors to develop comprehensive COVID-19 exposure control plans, which may include appointing a COVID-19 officer at every job site and developing a training program for workers. Standard operating procedures also should be considered carefully for measures such as **temperature taking at job site gates** and mask wearing. The primary goal is worker safety; a secondary consideration is to reduce the contractor's exposure to unnecessary liability.

Key points to consider include:

- How will temperatures be taken to avoid breaching the six feet of social distance?
- Will workers be trained to take the temperatures properly in the least intrusive way possible, including by using no-contact thermometers?
- Or will a third-party medical service be brought in to administer the on-site temperature checks?

There also should be a clear understanding of the threshold for an elevated temperature that would warrant sending a worker home, consistent with CDC guidelines. Furthermore, if the employee's temperature is elevated, workers need to be aware that this information should be treated as confidential employee medical information that is not to be freely shared. Will portable testing centers be required on job sites to prescreen workers, and to what extent will testing be available and reliable? The contractor will need to determine how much documentation is kept of workers' test results. A great degree of detailed decision-making is necessary.

Clear protocols for face coverings will need to be established as well, because a time will come in the life of a construction project when maintaining six feet of social distance will be next to impossible. Will cloth face coverings be deemed sufficient, or will respirators or other protective clothing, approved by the National Institute for Occupational Safety and Health (NIOSH), be required in certain circumstances?

COVID-19 considerations need to be woven into pre-task plans, and protocols should be reviewed daily. Every task on a construction job site should be independently evaluated for the number of people required, how close they need to work together, and what precautions will be taken. If a task requires workers to be within six feet of each other, a specific permitting process could be established and followed. Plexiglas or other acrylic barriers, like the ones many grocery stores have introduced, could be used, if necessary, to separate workers in close proximity.

Contractors may also want to use project management software (e.g., Procore™) and online platforms to inspect sites more often for COVID-19 compliance.

## An Evolving Situation

Because the situation with COVID-19 is evolving, government and industry guidelines are too. Contractors will need to build a habit of checking federal, state and local mandates and industry recommendations related to coronavirus to see whether their practices align with the latest guidance. They must be ready to adjust accordingly and communicate clearly and frequently with their crews.

The prospect of operating in an environment where COVID-19 risk lingers can be daunting. But through heightened vigilance and increased training—whether on-site or virtual—steps to manage COVID-19 risk on job sites can become as second nature as donning a hard hat.

The pandemic has shown already that many office staff and supervisors (i.e., project managers and engineers) can work remotely in an effective way. Off-site prefabrication is gaining attention as a potential means to help manage coronavirus exposure. Other adaptations will emerge as the industry thinks creatively about how to move forward after work resumes more widely—and all against the backdrop of further coronavirus risk.

It's worth noting that the construction industry has dealt with unexpected challenges and temporary project shutdowns in the past. Severe weather, natural or man-made disasters, political disruption, terrorism and even labor strikes can bring projects to a halt. Contractors have always shown their ingenuity and agility in overcoming these situations. In the new age of coronavirus, contractors and crews will show their agility yet again.

### About the Authors



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*York and New Jersey, Mark joined Zurich in 2005 and has been instrumental in the formulation and deployment of multiple key professional liability risk engineering services, as well as the development of standard work products such as customer and project risk assessments, claims case study reports and project site assessments. Mark also oversees the development of a growing library of industry best practices and claims-related presentations used to educate customers. Mark joined Zurich with 22 years of construction contracting project management experience. He has a Bachelor of Science in civil and environmental engineering from Rutgers University and holds professional affiliations including with the American Society of Civil Engineers (ASCE).*



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<sup>1</sup> Cubarrubia, Eydie. "NYC Announces Fines of up to \$10K if Work Continues on Non-Essential Projects." ENR. 30 March 2020. <https://www.enr.com/articles/49050-nyc-announces-fines-of-up-to-10k-if-work-continues-on-non-essential-projects>

<sup>2</sup> Goodman, Jenn. "Study finds construction safety practices are essential to protecting workers, community during pandemic." Construction Dive. 16 April 2020. <https://www.constructiondive.com/news/study-confirms-construction-during-pandemic-puts-workers-community-at-risk/576161/>

<sup>3</sup> Ibid.





## Revenue Protection in the Time of COVID-19: 3 Tips for Contractors

by Patrick Hogan, CEO, Handle.com

Four months after the first recorded case of COVID-19 in the United States, the situation is still largely the same for contractors in the country. Governors are beginning to ease restrictions in the construction industry to get people back to work and restart the economy. However, construction businesses are still subject to the same supply chain disruptions, cash flow problems, workforce shortages, and health risks in continuing business operations.

The focus of construction businesses now is to protect employees from health risks, manage the operational impact of supply chain disruptions, and preserve revenue sources as much as possible. Revenue protection, in particular, is the biggest challenge for construction business owners.

Payment issues have always been present in the construction industry, even before COVID-19. Construction delays and payment disputes are such a frequent occurrence in the industry that some may even say they are the norm rather than the exception.

These issues can be traced back to how the industry operates. A single construction project, for example, can have multiple contracts signed by multiple stakeholders. These contracts follow a hierarchical framework where payment accountabilities start from the property owner or the general contractor down to the subcontractors, sub-subcontractors, suppliers, and so on. This can cause communication issues between stakeholders, delays in schedules leading to further delays of payment, and a “domino effect” of nonpayment from the top parties down to the other participants in the contracting chain.

Now that the COVID-19 crisis has struck and all of these payment issues are amplified, construction business owners need to be proactive in protecting cash flow sources. Here are some of the ways you can protect your revenue in the time of COVID-19.

### 1. Analyze your current financial standing

One of the first things that you need to do is take a step back and look at the current state of your finances. Consider how much cash you have in your reserves and assess how long it will take before fixed and variable expenses take over your cash cushion. Many of the steps that you need to take to handle the COVID-19 crisis will involve a lot of cash so it pays to know how much cash you need to survive the ordeal and how long your reserves will last.

With cash flow getting tighter over the coming months, you may have to reconsider any capital investment plans you had before the crisis. In addition, you should look out for **financing options** that are available to you in case of cash emergencies.

### 2. Preserve your right to file a mechanics lien

The mechanics lien is a powerful legal tool available to contractors and suppliers that allows them to receive compensation for unpaid services provided or materials furnished. If before the COVID-19 crisis you weren't as proactive in protecting your right to file a mechanics lien, this time you need to be strict. After all, you need to take advantage of the tools in your arsenal to help support your business needs.

The most crucial step in preserving your lien rights is filing a preliminary notice. This is a legal document that contractors and suppliers serve on the project owner and relevant stakeholders to announce their participation in the project and reserve their right to file a lien in case they don't get paid. Different states have different rules and deadlines in filing this notice so ensure that you send your notices on time. For example, a **California preliminary notice** is required to be delivered--otherwise, you lose your right to file mechanics liens in the event of payment issues.

When you don't get paid for your materials and services, don't hesitate to file a mechanics lien. In normal circumstances,

you may afford to cut your clients some slack and give customers more time to pay you. But in the current crisis, cash problems can put you out of business. Filing a mechanics lien is one of the best ways to keep your cash reserves full.

### 3. Ensure a tight construction contract

The construction industry is founded on contracts. The construction contract is the primary tool that defines the relationship between the project owner and their general contractor, subcontractors, suppliers, and so on. In addition, it allocates project risk to those well-suited to handle them and provides the mechanism to mitigate these risks.

As the COVID-19 crisis continues, it is crucial that you be diligent in ensuring your construction contract is well-crafted. It should be written in a clear and concise language to avoid any dispute that can affect payment. It should also define the scope of work and anticipates the problems that may arise throughout the project and how to solve them. More importantly, it should address the realities of the current crisis—supply chain disruptions, workforce issues, health risks, and so on—and adjust the scope and work deadlines accordingly.

As the pandemic is reaching its peak, it is important now more than ever to keep your eye on the ball. Your company needs to be prepared to handle the cash flow impact of the crisis and you can only do so by protecting your revenue sources.



*Patrick Hogan is the CEO of [Handle.com](https://handle.com), where they build software that helps contractors, subcontractors, and material suppliers with late payments. Handle.com also provides funding for*

*construction businesses in the form of invoice factoring, material supply trade credit, and mechanics lien purchasing.*



# FEATURE

## How to Keep Your Eye on the Ball in the COVID-19 Era

by Mark Drury, Shapiro & Duncan

The current climate has brought innumerable departures from what 'regular' life looked like before. At Shapiro & Duncan, we've met these challenges with a proactive approach. This has been a crucial element enabling us to 'keep our eye on the ball.'

### First Things First – Throw Out the Old and Pivot

The first thing to acknowledge when facing the global pandemic is that life will no longer resemble what it did before. Change is inevitable, and in these current times coming faster than most of us would like, but this makes it more important than ever to embrace the new normal and pivot accordingly.

For us, the first thing we did was throw out our previously-developed 2020 strategic plan. Everything we had planned was built on assumptions and projections that no longer existed. Instead of wallowing in what could have been, we focused our efforts on pivoting to adapt to new circumstances and opportunities in order to set us up for success through these challenging times and beyond.

### Double-Down on Core Strengths

As part of our efforts to pivot as an organization, it was important for us to get back to the basics of who we are as an organization and a player in the mechanical contracting industry. At Shapiro & Duncan, we are a people-focused company, and as such, they took top priority in our plans and attention.

We jumped right in and ensured our people felt protected and secure in their jobs, and as an organization, we decided right away to focus on ensuring people remained paid and working as we did not want to consider any layoffs. From there, we went into purchasing mode to acquire appropriate PPE and hand

sanitizer to ensure our teams remained safe in the field.

### Delineate Essential from Non-Essential

From news outlets to state and local government officials, the distinction between what industries and types of work were deemed essential to continue and which were not has been a matter of opinion and debate. For us in the construction industry, while we were deemed essential and permitted to continue work, this designation also presented itself as both a blessing and a curse. A blessing in that our teams were able to continue to work, a curse in that we were saddled with the additional concerns associated with ensuring our team members remained safe and healthy. We made a number of tactical adjustments to this end, including adding field sinks and sanitation stations and adjusting work schedules for our trades teams, to be 4 10-hour days vs. a typical 5 day work week, to reduce exposure risks by 20% on a weekly basis. The essential nature of our work also required us to critically examine the projects we continued to work on, to ensure our team members were not exposed unduly to less time-sensitive projects. To-date, this has seen us making a concerted shift to hospital and healthcare build-out projects, bringing additional patient care spaces online and leveraging our expertise to be part of the ongoing solution.

### Lead with Compassion

Periods of challenge and adversity have a way of highlighting positive attributes we may not have noticed in easier times. As a company, our people are our best assets and the key drivers of our success. While we have long known this, the current environment brings a new determination to preserve the talented team members we have

on our team through compassion, understanding, and support. As part of this, our focus continues to center on building our resource base of quality talent going forward.

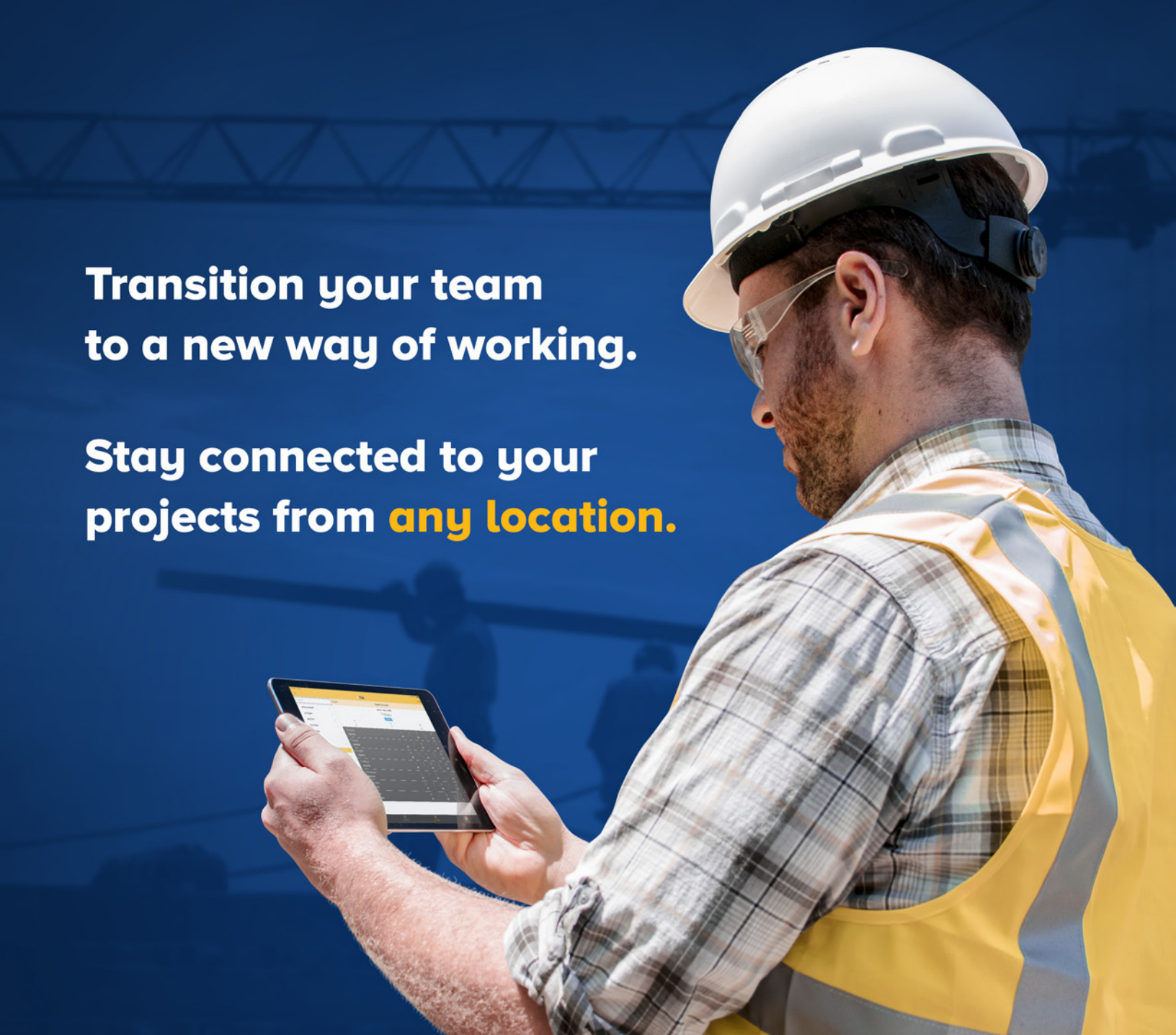
### Don't Mourn the Past—Focus on New Opportunities Ahead

The 'old ways' of living and working are gone, permanently. The reality of this forces us to look to the future and assess our tools and expertise to determine where best to chart our future course. For our team, this means leveraging innovations in technology to improve our Pre-Fab shop and BIM capabilities, as well as expanding our 3D modeling expertise, potentially adding robotics for on-site welding in the longer term.

New opportunities are coming. Modular construction will be a continued trend. Office modification projects are inevitable once people go back to work, along with changes to HVAC systems in group settings. It is important to keep your eye on the prize, to face these new needs with confidence to thrive and grow in the future.

*Mark Drury is the Vice President of Business Development at Shapiro & Duncan. He brings more than 40 years of experience in construction management and oversees the company's corporate development, contracts negotiation/management, and production of marketing and sales materials. Mark is a past Chairman of the Board of ABC Metro, is a LEED AP and Designated Design Build Professional. He completed his undergrad studies in History at Shepherd University and graduate coursework at Princeton and Clemson Universities. For more information about Shapiro & Duncan, please visit [www.shapiroandduncan.com](http://www.shapiroandduncan.com).*





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# FEATURE

## 'NEXT Coalition' Challenges Industry to Enhance Health, Safety Amid COVID-19 Pandemic

by Michael Myers, President, Southern California Region, McCarthy Building Companies, Inc.



While the COVID-19 pandemic has forced shutdowns of many global businesses, a coalition of leading critical infrastructure and construction companies has banded together to launch the "NEXT Coalition."

Based on the idea of the "next normal," the coalition intends to promote and share industry safety best practices to help mitigate the impact of this pandemic or a future health crisis.

The peer companies in the NEXT Coalition combine established cultures of safety, operational excellence, and innovation to accelerate impactful change with the industry and beyond. They include Black & Veatch, DPR Construction, Haskell and McCarthy Building Companies.

As a coalition, we are launching a crowd-sourced campaign focused on ensuring the well-being of crews and office team members in the construction sector, where work can be difficult to conduct remotely and social distancing is a challenge. The need for rapid innovation and implementation in the construction industry has never been

greater, and if we work together, we will move the needle faster.

To foster collaboration, we've introduced the "Construction Safety Challenge," an open call to companies, startups and other innovators with emerging safety solutions that impact construction safety and can be quickly deployed and scaled. We're looking for submissions that are as close to market-ready as possible, although proof-of-concept and prototype-stage solutions also will be considered.

The coalition is looking for solutions designed to minimize or quickly mitigate the onsite transmission of COVID-19 and future pandemics. The industry could greatly benefit from those which encompass issues such as safety policy compliance, screening, tracking and tracing, real-time communication, incident tracking, data analytics and others, as well as technologies for screening, mobile apps, disinfection, wearables, contact tracing, personal protection equipment (PPE) and more.

In addition to seeking both startups and seasoned companies to partner with

our members to implement products and processes, we plan to use our collective scale and experience to quickly begin sourcing, testing and launching solutions that will enhance health and safety in the field and back office.

What's most exciting is that chosen solutions may be deployed by coalition members on active projects around the globe.

The Construction Safety Challenge is facilitated by Brightidea, the leading innovation management platform that accelerates the success of modern approaches by harnessing the creative potential of organizations. The developed solutions will be submitted through a web portal, a mobile app or by email, then reviewed by subject-matter experts at each company. Those interested in more information about the NEXT Coalition's Construction Safety Challenge, including a full list of applications, can visit [nextcoalition.co](https://nextcoalition.co).

The NEXT Coalition and the Construction Safety Challenge are intended to complement trade associations' training and advocacy programs on construction safety fundamentals and practices. At the end of the day, everyone's mission is to ensure that workers return home safe and well at the end of each day.

Those of us participating in the NEXT Coalition agree that safety is not competitive and it truly can be open-source. Joining others in the industry to streamline a process for sourcing safety innovations will ultimately improve safety for everyone. Engineering and construction firms from startups to seasoned companies that are interested in joining the coalition may contact us at [contact@nextcoalition.com](mailto:contact@nextcoalition.com).



Michael Myers is president of McCarthy Building Companies, Inc., Southern California Region. Established in 1864, McCarthy Building Companies, Inc. has a long history of building facilities that drive greater value. From exceptional levels of quality and safety — to ease of maintenance over time, we are firmly committed to helping our clients and partners achieve the short- and long-term strategic goals of every project we do. For more information visit <https://www.mccarthy.com/>



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## Legal Corner—Keep Your Eye on the Ball

by Mark A. Cobb, Cobb Law Group

Operating a successful construction business during these times challenges owners, key-level employees, and boots-on-the ground laborers in unprecedented ways. Virtually every day brings new information which has the potential to derail businesses as they evaluate on-going concerns such as work-place safety, supply-chain interruptions, and skilled-labor supply with newer concerns of SBA emergency loans, meeting payroll and credit obligations, and longer-range business planning.

Every week, I play tennis. When I'm playing at my best, I keep my eyes on the neon yellow tennis ball coming my way until I see it hit my racket on a trajectory aimed at my opponent. At the game's start, this concentrated focus is easier, but as the game progresses, fatigue sets in, concentration waivers, distractions invade, and the quality of play slips. Right now, the construction industry is experiencing similar feelings, but it's more important than ever to watch the ball, predict where it will be when we are ready to swing, and prepare your stroke to return the ball and place it properly on the other side of the net.

Subcontractors operate like coaches for special teams, but they seldom have the autonomy given to the head coach or, in this case, the prime contractor. Thus, every subcontractor should establish its short-term goals and its long-term goals to meet each of its expectations. Health, safety, employee retention, continuous training, performance, scheduling, and cash-flow are some of the goals which must be evaluated with a unique eye during this pandemic. Let's review some of the legal and business strategies that will help subcontractors better ace their game.

### Understand Your Deadlines:

When a subcontractor understands its deadlines, it can better enforce its rights and protect itself from others. There are two common deadlines which impact subcontractors' rights. The first type of deadline is a *statutorily* imposed deadline. These are deadlines which are imposed by state or federal laws. During the pandemic, several jurisdictions have tolled various deadlines and this order may give a subcontractor an additional amount of time in which to enforce its rights. Examples of these types of deadlines may include the deadline to file a materialmen's lien or file a lawsuit to enforce something under a construction contract.

The second type of deadlines are *contractually* imposed deadlines. These deadlines may be found in a subcontract agreement; subcontractors may also be subjected to the deadlines and obligations found in the Prime Contract between the project owner and the general contractor. This is vital to understand (and meet) the deadlines based upon contracts. Examples of these include notice deadlines for delay or dispute over the scope of work. It is also important to note that the judicial emergencies issued by some states seldom extend the contractual deadlines.

**Review Your Contract:** When pandemics invade the work-place, even the most gentle project owners and general contractors may be forced to be more demanding and aggressive about a subcontractors' performance. Every contract and every project are different, and in order to maintain the project, a subcontractor would be wise to review its contracts and create checklists regarding such topics as notice requirements, change orders, and waiver deadlines. When

a subcontractor is familiar with its obligations (and the obligations of the opposing party), it is easier to make decisions regarding the project. More importantly, subcontractors need to meet these deadlines with no excuses.

### Carefully Review New Contracts/ Consider Adding a Covid-19 Clause to Your Contracts:

Contractors' construction contracts are changing since the start of the pandemic. They are including greater transfer of risks, and they are separating force majeure provisions and Covid-19 clauses. Understanding these contracts and negotiating a more favorable position or refusing a foreseeably bad project will save subcontractors time, money, and frustration. The ASA has provided its members with a recommended Covid-19 provision to consider inserting into subcontracts. To access, please visit <https://www.asaonline.com/covid-19-information/>.

### Confirm (Reconfirm) Labor

**Availability:** In order to complete a project timely, subcontractors must have an adequate supply of qualified, competent labor. Prior to the shelter-in-place orders, skilled construction labor was difficult to find. Unfortunately, the process has become even more difficult. Verify that you have the manpower to complete the project per the contract's requirements.

**Confirm Costs:** Similarly, cost escalation has become a bigger issue than before due to interruptions to the supply chain. Imported materials, specifically fabricated supplies, and transportation delays are causing potential issues. Subcontractors would be wise to spend some time confirming that products are available and that prices remain the same. If cost escalation occurs, communicating this to the general contractor in a timely fashion may increase the likelihood

of recovering the additional costs experienced by the subcontractor.

**Implement Safety Protocols:**

Running a safe project has never been more important. OSHA guidelines have long-standing safety requirements on projects; now, contractors must also implement additional safety protocols to comply with social-distancing guidelines and limit the spread of the coronavirus. Subcontractors should consider naming a safety supervisor to maintain the most current information on the best-practices to prevent the spread of the virus on the jobsite and ensure that the protocols are closely followed.

**Know Your Critical Path:** Various jurisdictions have treated construction projects differently; some have shut-down projects completely while other jurisdictions have included construction as an essential business. In addition, illness, child-care, and fear, have impacted the personnel working on many projects. Every subcontractor should meet with its prime contractor to discuss how the construction schedule may have changed and understand the current target expectations.

**Add Float:** Whether a subcontractor is submitting a new bid or revising the critical path of an on-going project, most subcontractors understand the need to add float. If a subcontractor is fortunate enough to have a bit of "extra" time, do not be a procrastinator. Use float days wisely and productively to improve performance.

**Review Insurance:** After considering some of the risks resulting from the start of the pandemic, it may be a good time to assess a subcontractor's insurance needs. Adding some additional coverage to existing insurance policies might provide the business owners with some peace of mind as they navigate the changing legal landscape. There are many more unknowns, and it seems unclear exactly what an employer's liability is regarding employees who contract Covid-19 from the work-place; similarly, some local health departments

and local decision makers are adding to the minefield of obligations which may fall to a subcontractor. Consider adding additional coverage for General Commercial Liability, Error & Omissions policies, Umbrella Coverage policies, Business Interruption Insurance, Director & Officer Liability, and Employment Practices Liability insurances.

**Avoid Transfer of Additional Risk:**

Many owners (and prime contractors) are doing their best to pass the risk associated with Covid-19 and project shutdowns downstream to their subcontractors. Frankly, most professionals believe that it is too early to predict all the risks and the potential exposures. Thus, it will be worth the subcontractor's effort to negotiate and mitigate these risks. If the risks remain too high and the owner or contractor is not being reasonable during the negotiations, then imagine how difficult that same owner or contractor will be if a problem occurs. If a subcontractor cannot build in sufficient protection into its contracts, then the subcontractor may want to consider saying "no" to that project.

**Communicate Often and Clearly:**

Many conflicts which cross an attorney's desk could have been avoided with communication. Subcontractors must be in regular conversation with its general contractors regarding the status of the job. It is seldom advisable to withhold information or provide partial truths. Building a healthy working relationship will prevent problems. And, when problems occur, the parties are more likely to work together to solve the problem.

**Evaluate Your IT Structure:** Many employees continue to work remotely despite the lifting of some restrictions around the country. It is very important to a business that its IT structure be robust enough to handle the work which is needed. For example, do the systems allow the necessary level of access, proper security, data backup,

and document documents for those working on the jobsite, the home office, and those who remain working at home.

**Focus On The Future:** At times during the pandemic, it seem as though everyone is running between one small problem to another as the parties work together to formulate a workable strategy. Despite the energy drain resulting from this, it is actually a wonderful time for subcontractors to begin implementing new, long-term strategies that will help their businesses thrive in the future. It is a great time for marketing right now as self-promotion on social media is more acceptable (e.g., donating lunch for health care workers); a subcontractor's customer service will be remembered by owners and prime contractors alike so now is the time to shine. Adding additional technology or migrating to better software might help the management of larger or more projects in the future. This is a great time to be building for the next economic up-swing.

Subcontractors are vital to our society, and we want each of them to win their games; more importantly, they must continuously work hard to win the tournament. By spending a little additional time now, they have the opportunity to make positive changes for the future.

*For over 25 years, Mark has been practicing construction law throughout the State of Georgia. He remains active in many professional organizations, and he speaks and lectures extensively on Georgia's Mechanics and Materialmen's Law, payment bonds (Miller Act and Little Miller Act claims), construction contracting and risk-allocation & damage mitigation. In addition, he publishes on similar topics regularly. In fact, Mark recently finished co-editing a 50-State Lien Law publication for the American Bar Association's Forum on the Construction Industry and has contributed to several other books and industry publications. More information on Cobb Law Group and Mark Cobb can be found [here](#).*



## FEATURE

# Managing Safety Training During and After the COVID-19 Pandemic

by Dom Tolli, vice president of product development, American Red Cross



Given the current pandemic, it's easy to postpone all but non-essential training; however, there are safe ways to train your employees while staying healthy.

In the best of times, industrial workplaces can get sidelined by weather events that impact delivery and employee schedules, new regulatory requirements that change business practices or on-the-job accidents, injuries and illness.

Now, another unexpected influence is forcing immediate changes with enormous impacts—the coronavirus disease 2019 pandemic. Wary buyers pull back in unsettled economies, work environments morph due to social distancing requirements, shipping and transportation is disrupted and staffing is in flux daily.

Given all of these competing elements, it's easy to take an "it-won't-happen-here" mentality, postpone all but

non-essential training, and hope for the best. However, on-the-job accidents, injuries and illness fatalities bring human tragedy to your corporate family. Furthermore, sick or injured employees can mean a loss of workforce, missed deadlines and an unreliable reputation.

According to a report by the Bureau of Labor Statistics, in 2018 (the most recent year for which the data has been compiled), **37 percent of the "days away from work" cases due to nonfatal workplace injuries and illnesses resulted in a visit to a medical facility—and there were nearly 334,000 of these cases.**

When it comes to fatal work injuries, there was a two percent increase from 2017 in fatalities, but the shocking difference comes in the increase among minority populations—16 percent among African Americans, the highest total since 1999, and six percent for Hispanic or Latinos. The fatal work injury rate

for those over age 65 is still more than double that of workers of all ages in total.

By necessity, there may always be a level of risk in industrial workplaces. What can change is how companies prepare their employees for these risks. Employees who know what to do when there is an injury in the warehouse, when a colleague collapses due to cardiac arrest or when they are on the scene of a transport accident, can make the difference between life and death on the job. The challenge now becomes how to find safe ways to continue training during the COVID-19 pandemic.

Tim Smith, the CEO of HeartCert CPR Training in Minneapolis, gave serious consideration to shutting down training operations when stay-at-home orders first came out. Then he started getting calls and emails from people who needed a certification as a job requirement. "They want to be in the workforce doing a certain job, and they couldn't do it without their certification," he said.

### Create a Roadmap

Smith lays out a roadmap for how his organization, and others, are enabling training during this time. Of greatest importance, follow public health guidance. Look at federal, state and local jurisdictions as well as the Centers for Disease Control and Prevention and the World Health Organization. Consider ways you can eliminate contact and minimize class sizes. If you typically train in groups of 12, you may have to now train in groups of six in order to follow six feet of social distancing as well as restrictions on sharing equipment. Gloves and masks are mandatory, and skills practice has been modified to comply with social distancing requirements.



Many training organizations send out screening guidelines ahead of time via email, telephone and text. The communications should always include a reminder of the potential signs of the novel coronavirus and instruct students with health concerns to reschedule. As an additional precaution, many organizations are taking temperatures before students enter the facility.

Next, consider which employees need in-person training and which might be able with an online alternative. In fact, this might be something to approach your counterparts in Human Resources and see if they have any “desk” employees who may be interested in taking an online, non-certification course.

There are certification options available that are part of a blended learning curriculum. The American Red Cross, for example, is allowing students to take the online, cognitive portion of a blended learning course and giving them a “provisional certification” good for 90 days after course completion. In this provisional certification course option, the student has three months to take the in-person skills test, during which time the hope is that stay-at-home orders will be lifted.

## Virtual Testing

The next phase in the roadmap is virtual training and testing. The Red Cross, the American Safety & Health Institute and the American Heart Association are all allowing the skills testing to be conducted virtually as long as the instructor can clearly see and verify the student’s psychomotor abilities.

Virtual training presents an opportunity to better align with those who may have scheduling conflicts, such as the person who may not have enough time to get to the training facility after getting off work or who have childcare concerns.

The biggest hurdle is often getting (not to mention returning) the equipment—a manikin with a feedback device that the

instructor can monitor as well as an AED training device—to the student.

Tracy Klinkner, owner of CPR Certified Trainer in Missouri and a Red Cross instructor, completed her first virtual class in April. The equipment was dropped off on her student’s front porch, and then she connected with the student via FaceTime to conduct the virtual class. Klinkner is finding success with this option with several classes lined up. “Everyone has been so thankful this option was given to them; it’s definitely a win-win,” she said.

## Thinking Ahead

While training during this time has been reduced to maintain the overall safety and well-being of employees, and only those who absolutely need it are training, workplaces will eventually open again. Public health guidelines are the starting point, but it’s up to the trainers to find and implement the most effective processes for teaching the material safely.

One training method that seems to be gaining traction in this time of distance learning is blended learning. Introduced about 10 years ago, blended learning programs offer online interactive cognitive education with a follow-up skills test.

In addition to being available anywhere and anytime users have access to a computer, tablet or mobile device, blended learning allows learners to repeatedly test knowledge at their own pace and in a variety of scenarios.

Alternatively, for those who are very familiar with the subject matter, certain Red Cross blended learning courses use adaptive learning, which allows the student to opt out of sections by demonstrating competency.

Forward-looking owners like Smith are already thinking about new approaches to training and how to incorporate methods that have demonstrated efficacy.

“One of our clients is a laboratory group that falls under OSHA

requirements,” he said. “It’s not time for them yet, but we’ll be reaching out when certification deadlines near to provide them with options and figure out what will work best.”

## It Comes Down to Adaptation

While some organizations and instructors may not be training during this time, a large majority feel that teaching lifesaving skills is essential and that they are making a difference. In fact, some instructors would argue that now, more than ever, people need to know what to do in an emergency and need to know how to save a life.

Red Cross instructor Manny Perez continues to train in the Tampa Bay area. “As strong a health concern that COVID-19 presents, it also opens up opportunities and changes the way we think.”

Perez believes that this pandemic is forcing an opportunistic disruption among training providers, making them re-think their models and consider new ways to interact with students.

The most successful organizations will be those that can shift and adapt their processes during this time, figuring out solutions on how to get—and keep—people trained. Certainly, the COVID-19 pandemic has taught us that traditional “sit in a classroom for a day” training is not the only option, and it may not be the best option going forward—even after the COVID-19 pandemic subsides.

“There are things people can do,” Smith said. “It’s only a matter of time before safety managers say, ‘We can’t put off training forever; we have to consider one of these options.’”

*Dom Tollis is vice president of product development at the American Red Cross. Options for conducting first aid, CPR and AED training during the COVID-19 pandemic can be found at [www.redcross.org/workplace](https://www.redcross.org/workplace).*

*This article originally appeared in the June 2020 issue of Occupational Health & Safety, and is reprinted with permission.*



# FEATURE

## What Is Your Company's Post-COVID-19 Liquidity Strategy?

by Tyler Pare, principal and performance practice leader, FMI; and Alex Miller, managing director, FMI

**As the smoke begins to clear on the global pandemic, liquidity management will be a business imperative for the foreseeable future.**

Both reeling from economic shockwaves induced by the COVID-19 pandemic, the U.S. national economy and the Built Environment are in uncharted territory. Over the past several weeks, both engineering and construction (E&C) firms and industry service providers have been scrambling to get a handle on the situation and brace for the associated financial impacts—particularly with respect to liquidity.

By now, much of the low-hanging liquidity fruit has been picked, including extending lines of credit, securing payroll protection program (PPP) funding and reducing discretionary spending. However, the industry is far from out of the woods, and liquidity management will be a business imperative for the foreseeable future.

The positive news is that times of volatility are also times of opportunity for firms that are well positioned and well capitalized. At FMI, we have been coaching clients to think about liquidity in today's market through these two prisms:

- **Survive** – What will your company need to get through the next 30, 60 and 90 days?
- **Thrive** – Can you feasibly go on the offensive and take advantage of a volatile marketplace?

In this article, we highlight key factors for E&C executives to consider in order to survive and thrive in the post-COVID-19 reality.

### Survive

Consider how long you would be able to operate your business with zero additional cash inflow. This can be derived from the “Days of Cash on

Hand” formula below. Under normal conditions, this ratio could be viewed as a superfluous metric (e.g., “if the world stopped tomorrow, how long could the business survive?”). For some, the world has stopped. Today, this crucial metric should be a standing agenda item at weekly executive committee meetings. While Days of Cash on Hand considers “worst-case scenarios,” trend analysis of this metric can provide a meaningful gauge for executives to understand whether the company's liquidity position is improving or deteriorating going forward.

During the last several weeks, the E&C industry has gained a newfound appreciation for fundamental cash flow forecasting. By now, your financial leadership should have produced a reliable cash flow model. Begin to stress-test the model with what-if scenarios, erring on the side of worst-case situations related to factors such as:

- Mothballed projects
- Client bankruptcies
- Subcontractor defaults
- 30-, 60- and 90-day collection extensions beyond contract terms

Now is the time for project managers to develop cash flow projections on all of their projects on a monthly or biweekly basis for the continued period of economic uncertainty. Your financial leadership should provide templates, education and coaching

for this process. It's important to note that detailed cash flow forecasting is the best way to instill confidence in your banking and surety relationships. Should you need financial assistance in the future, banks are more apt to bet on a business that understands its current and future cash needs.

You'll also want to factor in the cash flow impacts associated with project restarts. In markets where construction activity has been suspended, monolithic restart dates will put tremendous stress on the contractor community relative to manpower and liquidity. Project managers should be required to develop a restart strategy for all impacted projects, with consideration for key projects risks (i.e., clients, subcontractors and procurement). Cash flow implications associated with each project restart strategy should be incorporated into the cash flow forecasting referenced above (see “**Critical Project Restart Strategies**” by Gregg Schoppman for more details).

Finally, understand the covenants associated with your banking and surety arrangements. Leverage forecasting to determine whether covenants may be in jeopardy and communicate with your financial institutions proactively if you suspect that you may require relief in the near future

## Focus on what you can control

To best drive cash inflow, consider making these moves:

### 1. For management:

- Increase management focus on billings and collections.
- Dashboard outstanding AR in tranches of 30 days.

etc.), and consult with legal counsel to develop contract language relative to potential future shutdowns related to COVID-19 (e.g., a “second wave” in the fall of 2020).

When it comes to current obligations and accounts payable, there is more risk than opportunity in slowing down payments. Subcontractors, vendors and suppliers typically prioritize services to customers who pay on time. This will be particularly

buyers entering the market), and many buyers have decided to sit out the recent wave and wait for the right opportunity. In February 2020 (“pre-COVID”), FMI conducted its annual “M&A Trends for the Construction Industry” survey. We found that, overall, buyer interest had begun to slightly soften compared to the past three years as buyers sensed we were nearing the peak of market activity and valuations had grown accordingly. We received feedback like:

- “We will look to be opportunistic as the market slows down and the current age of many business owners forces them to retire.”
- “We are preparing for a downturn. This will make targets more affordable.”

We are already seeing well-capitalized companies position themselves to be acquisitive in the next few years, either of well-performing companies whose values may be impacted or of firms that have found themselves in trouble (they didn’t read the survive section of this article) and are looking for a lifeline. As for sellers, recessions and pandemics do not change demographics; business owners in the E&C industry continue to get older and will need to consider their personal liquidity in the context of a volatile market.

FMI has identified the following tips for managing liquidity during this time with an eye on thriving through the crisis:

**Keep a “Liquidity Reserve.”** First, make sure the business has the liquidity needed to get through this crisis. Next, go back and double-check your math. Stabilizing the business should be your top priority. There will be unique opportunities for growth that present themselves in the coming months,

$$\frac{\text{Total Cash on Hand}}{\text{Annual Operating Expense}} \times 365 \text{ Days} = \text{Days of Cash on Hand}$$

- Meet weekly with project management to review and understand the status of all invoices.
- Develop action plans for every outstanding invoice—and review the following week.

true in markets where work has been suspended and where the project restart risk outlined above is significant. To avoid supply chain and production issues that can impact cash flow dramatically, pay current obligations on time per contract terms.

### 2. For clients:

- Require project managers to proactively communicate with clients.
- Confirm intention of payment prior to payment due date per contract terms.
- Communicate late payment status weekly in documented job status update email.
- Leverage zippered relationships to communicate upstream in client organizations if there’s no response in two weeks.

## Time to Thrive

Times of volatility can be times of opportunity (“don’t ever let a good crisis go to waste”), particularly if you have the financial and operational capacity to identify and seize the opportunity. At the peak of the market, it can be expensive (at best; impossible, at worst) to hire senior talent needed to grow the business, and the opportunity cost for taking senior managers and allocating them to growth initiatives can seem too high.

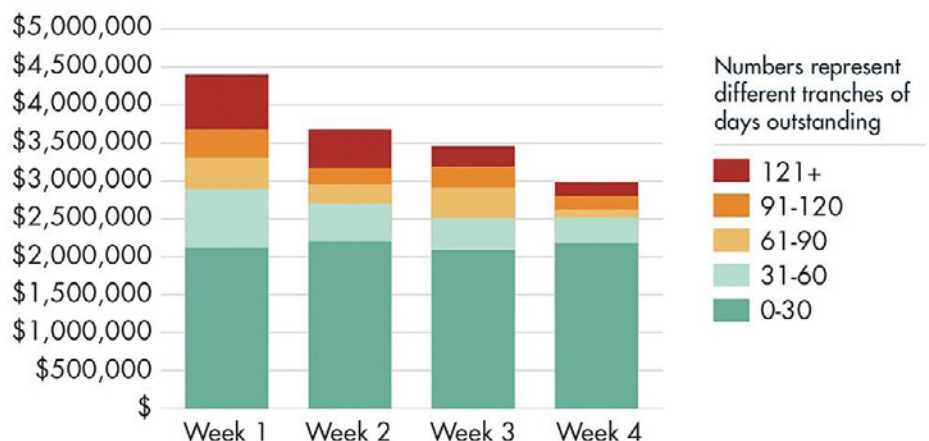
As for acquisitions, the last few years have seen tremendous activity (with new

### 3. For accelerations and “fill-in” work:

- For essential projects, determine whether production/schedules can be accelerated (to the extent you have confidence in payment terms). Clients with deferred maintenance or small projects may be receptive to initiating work in spaces with reduced occupancy during work-from-home or stay-at-home ordinances.

### 4. For new work contracts:

- Negotiate advantageous terms impacting cash flow (schedule of values, mobilization, trade credit terms,





but they will be wasted if you have not cultivated your “own garden.” Once you have assessed your own financial needs, consider what amount of capital you can set aside for opportunities—segmenting “operational liquidity” from “strategic liquidity.” Strategic liquidity is the capital that can be used to fund growth or other strategic initiatives, such as:

- Hiring a key leader or business development professional for a new market segment.
- Opening a new office in an attractive market.
- Hiring crews to increase or greenfield self-perform capabilities.
- Acquiring a company that accelerates a strategic growth plan.

**Reevaluate Strategy for an Uncertain World.** Not all opportunities are great (or even good), so reevaluate your strategic plan and have a clear set of objectives by which to measure all potential opportunities (i.e., a strategic “go/no-go”). This is particularly critical when you have less liquidity to make multiple gambles. Be judicious with your resources (both capital and time). In the context of the post-COVID-19 world, ask yourself:

- How will our core markets/segments be impacted by COVID-19?
- How dramatic and long-lasting will changes in demand be?
- If our markets/segments will grow substantially, how do we capitalize on them?
- How do we protect/grow market share or customer share of wallet? Do we have enough time to accelerate growth organically, or do we need to consider acquisitions?
- If our markets/segments will shrink substantially, how will we pivot to new opportunities?
- How do those opportunities align with our core capabilities?
- What capabilities will we need to add to be competitive going forward?
- Is there enough time to pursue opportunities outside of our wheelhouse organically, or do we need to consider acquisitions?

- How much liquidity do we need to fund an organic/startup penetration strategy, acquire top-tier talent to accelerate market/segment penetration, or buy our way into a new market segment?

#### **Don't Forget Your Personal Liquidity.**

For many business owners, their largest asset is their investment in their companies. Unfortunately, this is an illiquid asset. In the last few years, we have seen a record volume of both M&A activity and ESOP transactions in the E&C industry, both of which allowed owners to extract liquidity from their ownership in the company. However, the average age of ownership in the industry is still increasing, and many firms will face the need to transfer ownership (i.e., get the owner liquid) in the next few years.

At FMI, we encourage owners to consistently consider their personal liquidity plans when implementing strategic plans. While there will be unique growth opportunities in this market, growth requires investment—which comes at a cost to near-term liquidity. With both the credit and surety markets likely looking to increase capital requirements for the foreseeable future, getting liquidity out of the business will come at a premium.

Also consider that while the M&A markets have been strong, the majority of construction firms still transfer equity internally. This places a premium on developing next-generation leadership. When times get tight and we are forced to reevaluate all costs, it is sometimes easiest to look at tenure as a determining criterion. However, we must remember that the next generation of leadership will be vital to ensuring liquidity for our investment in the company—whether that ownership transfer is internal or external. Even if our plan is to sell the company, one of the highest drivers of value in the M&A market is a management succession plan (no one wants to pay you money to fix your succession plan).

Capital is a finite resource in a business—the same dollar cannot be used to fund operations, fund strategic initiatives and provide the owner liquidity. In the current environment, business owners must be more disciplined in managing liquidity and increasing access to capital to ensure the sustainability of operations

and to take advantage of opportunities that will become available. Owners must also consider their personal liquidity within the context of their life goals (i.e., retirement, de-risking personal assets) as they consider where to place bets with capital. A disciplined approach to maximizing and strategically deploying liquidity will allow firms to survive in the near term and thrive for years to come.



*Tyler Pare specializes in operation and business development for FMI. He leverages his construction experience, coupled with his advanced knowledge of*

*business mechanics, to help clients manage risk and optimize profitability. His consulting work focuses on linking work acquisition processes with project execution best-practices in support of competitive strategy. Tyler also spearheads FMI's Peer Group practice, which brings progressive industry leaders together to study and improve upon their businesses.*



*Alex Miller is a managing director with FMI Capital Advisors, FMI Corporation's registered Investment Banking subsidiary. He works with engineering and construction industry*

*firms across the country and internationally, focusing on merger and acquisitions (seller and buyer representation), growth strategy, ownership transfers and valuations. Alex has written numerous articles on mergers and acquisitions trends in the E&C industry and speaks often to industry groups about overall industry trends, mergers and acquisitions, international interest in the U.S. construction market, and ownership transfer issues.*

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# Complimentary Webinars

TUESDAY, JULY 14, 12:00PM - 1:00 PM (ET)

## How to "Turn the Corner" on Auto Claim Increases

Presenter: Jim Berriatura

Auto insurance rates continue to increase. Distracted driving is causing accidents at an alarming rate. The traditional auto risk management methods have not dented the jump in claims. Join Jim Berriatura, VP at Gallagher Global Construction Services, for "lessons learned" on how to make crash avoidance (i.e., a zero- accident program) your answer to rising auto insurance rates. Discover how the construction industry stands to benefit from technology-based collision detection systems.

*Jim Berriatura is currently the Vice President as well as a Producer for Gallagher Global Construction Services in San Francisco, CA. He is a Construction Team Civil Engineer Graduate from Loyola Marymount. Jim has been a Producer for the Gallagher Construction Unit for 22 years.*

**[Register here.](#)**

TUESDAY, AUGUST 11, 2020, 1:00 PM - 2:00 PM ET

## How to Meet Workforce Needs

Presenter: Patty Bird, NCCER Workforce Development Senior Manager

What does the construction industry look like moving forward? If the industry wants to grow to meet the ever-changing infrastructure and growing population demands, we need to find ways to recruit and train new craft professionals. This presentation will show where the industry is headed and provide ideas to grow the number of craft professionals to meet the current and upcoming demands. Please join us to learn how your company can grow the workforce.

*Patty Bird is the Workforce Development Sr. Manager at NCCER. Her role includes assisting organizations implement training and workforce development programs. During her tenure at NCCER, Patty has worked as an accounts payable/receivable coordinator, administrative assistant, project manager and Sr. Manager of Projects. Patty has a bachelor's degree in English with both a literature and writing emphasis from Northern State University.*

**[Register here.](#)**

**For all upcoming ASA events, go to [www.asaonline.com](http://www.asaonline.com)**

# Coming Up

in the July 2020  
Issue of ASA's



Theme:

## Construction in a Changing Environment

- The Scale of the Climate Catastrophe Will Depend on What Businesses Do Over the Next Decade
- How Changing Climate Conditions Affect Construction Decisions

Look for your  
issue in July.

To access past issues  
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From its inception, the SLDF has been involved in many landmark decisions, starting with its first case in 1997, Wm. R. Clarke Corporation v. Safeco Ins., which prohibited pay-if-paid clauses in California.

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To make a contribution to this vital fund, visit <http://www.sldf.net> or send an email to [soscar@asa-hq.com](mailto:soscar@asa-hq.com) for more information!

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