Do you consider yourself a person who lives your life in a positive manner, as though the proverbial glass is half full, or do you live like the glass is half empty, seeing it in negative terms? Most people I ask this question answer “half full.” I think they’re probably telling the truth – but I’m not sure they always look at life that way.

I know some people who see the glass half full even in the most difficult times and situations, not just when things are going smoothly. This attitude is the key in helping them to keep believing and stay the course.

Kevin Plank, founder and CEO of the sports apparel company Under Armour is one of these people. When asked what his corporate philosophy is, he answered, “No loser talk.” “No matter how tough the meeting is”, he continued, “always find something positive you can take out of it and focus on that.”

When he first started the company out of the basement of his home the odds were long against his company even making it out of that basement. He was trying to break into a market dominated by massive companies like Nike and Adidas. Many times the numbers didn’t look very good and the company’s future looked bleak, but Kevin said he still always found something to be positive about. This philosophy seems to have worked pretty well for him – Under Armour not only made it out of Kevin’s basement, it turned into a massive international company with more than $1 billion in yearly sales. The company hit a rough patch recently, but if the past is any indication I am confident Kevin will bring the company out of it even stronger than before.

I know a broker in my industry who has a similar attitude. I have been in countless client meetings with this gentleman in

In This Issue Of Networked & Connected:

Half Full .............................................. 1
Engineer’s Corner - MEP Engineering Prior To Bid ...... 2
What Would You Do Different? .................................... 3
It’s A Matter Of Context ............................ 4
Making Maryland Magnificent - Baltimore Grouting .... 5
Product Profile - PlanGrid .................................... 6
Cybersecurity For Your Business .......................... 7
The Flood Of Sexual Harassment Claims ............... 8
Meet & Greet - Mobile Video Guard ......................... 9
Christmas Toy Drive ...................................... 10
Construction Company Overhaul ......................... 11
A Key Leadership Task - Managing Change ........... 12
How A Construction Company Saved Money ........ 14
“Communications” - A Smart Building Utility ........ 15
The Art Of Negotiation .................................. 17
Documenting Change Orders ........................... 18
Don’t Be The Next Victim Of A Cybersecurity Breach . 19
DevOps - Bring Business Into Software Development . 20
Liquidated Damages: A Clause That Can Ruin ...... 21
Intersections ........................................ 22
How Big Data & Analytics Is Changing Insurance ... 23
Resolutions To Protect Your Business In 2018 ........ 24
Upcoming Events ..................................... 34

Continued On Page 25
Engineer’s Corner

Design-Build: MEP Engineering Prior To Bid?  Is This Good For Business?

When does the engineering take place in the deliverable process? Traditionally, DESIGN-BID-BUILD projects require the design team to provide a fee proposal for award, then the design team fully engineers the project, producing complete drawings and specifications. These documents would be all inclusive, providing floor plans of the mechanical-electrical-plumbing (MEP) distribution systems, equipment schedules providing demand capacities, control sequences and installation details. In addition to drawings, detailed project specifications include product options and installation methods. These comprehensive set of documents are provided to the builder to produce a bid. This is enables all the trades/installers to see the full scope of work, very clearly defined.

DESIGN-BUILD

However, much of the world has embraced the DESIGN-BUILD method of construction. This brings the design team and the construction team together at the very start, bidding the job as one entity. In many ways this benefits the process, allowing for the builder to have input with respect to type of systems, preferred equipment, as well as, constructability issues they may have encountered on previous projects.

Design-Build brings challenges as well. The design team typically does not provide engineering services until after the bid has been awarded, and the builder typically has detailed contract documents to produce a bid. Do you provide MEP engineering services prior to the bid?

The builder will require some means or basis to produce the construction bid. The less information provided tends to result in higher contingencies and higher bids. This is directly opposed to the concept of “competitive bidding”, and winning the project. Keep in mind with Design-Build, an unsuccessful bid is unsuccessful for the builder is also an unsuccessful bid for the designer. Your competitor may have gone a different pre-bid route, providing additional information, enabling a more realistic price on bid day. In addition to providing a cost-effective bid with lower contingencies and receiving the project award, the team experiences fewer unknowns during construction, increasing the likelihood of a profitable project.

What did your competitor do differently? They provided a “Technical Narrative.”

Continued On Page 28
If You Could Start Over, What Would You Do Different?

Think of all the decisions you made over the last five to ten years that affected your future and where you are today. Now think of all those decisions you didn't make you wish you had. Remember when you were busy signing new contracts, getting plenty of business, trying to juggle all your commitments, scheduling crews, putting out fires, and doing everything you could to keep everyone happy? During this time it was hard to do everything you wanted to do. Because of the stress and workload, many construction business owners postponed making good critical decisions. Some of these might have included:

- Not letting go of poor performers fast enough.
- Not taking the time to train your field workers properly.
- Not investing in technology soon enough.
- Not taking time to invest some of your profits into investment real estate.
- Not taking enough time for yourself and your family.

Today, my most requested speech topic is “How to get your business to work in a tough economy!” During my presentation, I stop and ask everyone to write down what they would have done different with their business over the last five to ten years. The answers consistently describe many of the problems listed above. I call these “Do-Overs!”

Business owners don’t generally get a second chance to get it right. Your long season never seems to end. Yes, you make adjustments to weather the economic storm, alter your budgets, change a few players, and look for a few new customers. But most continue to play the game of business doing what they’ve always done, with the same rules, the same plays and the same strategy. The only thing different is your competition and how hard it is to win the game.

But in sports, the coach gets to start over every season. Winning coaches look at their past records and make positive decisions of what they need to drastically change and achieve better results. If they continue to play the game the same as they did last several seasons, they won’t continue to build and win. They have to look at how they play the game, players, coaches, methods, offense and defense, training, strategy, and tactics.

Now imagine it’s your turn to start a new season. You are the coach of your business and want to keep your job and make a lot of money for the owners. What should you do differently to win the game of business? What tough decisions should you make? What new plays will you
It’s A Matter Of Context

In the last newsletter, a success story about the use of Stop Work Authority was shared. To build on why people don't make full use of that authority, let's look at the decision-making process.

After several incident investigations in my career as a MOSH compliance officer and a safety consultant, I’ve found that people tend to make decisions based on what made sense to them at the time of the injury. While it is easy to look at the situation in hindsight and say it was a violation of common sense safety, the most valuable root causes are revealed when you investigate why that (ultimately wrong) decision made sense to the person at the time of the incident.

To accomplish this, leaders must understand the concept of “local rationality” where people make decisions based on their situational context. This context includes factors such as Self (motivation, ability, knowledge, habits, attention, emotion), Others (help, pressure, modeling), Surroundings (equipment, climate, layout) and Systems (rules, rewards/punishments, procedures)*. The person's view of that context will impact how they act, which will impact the results that they get. For example, if people perceive safety to be a set of rules (that they can choose to follow or ignore) they are more likely to give into their context instead of following a safety rule in the heat of the moment. When faced with high pressure, high personal incentive to get the job done quicker, and seeing others successfully take shortcuts, people in a rule based safety program tend to skip the safety steps and focus on getting the task done.

Effective leaders understand the impact of local rationality and work to create a culture that increases the likelihood for people to intentionally decide to work safely regardless of pressure, incentives, or other contextual factors. This involves teaching people HOW to think about safety not just WHAT to think (rules, standards, compliance). How to think in regard to safety means equipping people with the skills to evaluate themselves in relation to their situational context, recognizing hazards, providing the resources to correct the condition, and supporting them in their decision to stop work to effectively neutralize the hazard. All of this takes time, patience, sharing of success stories at meetings/toolbox talks, and leading by example. Make the investment, it's worth it. Be safe.

About the author: Joseph Xavier is a senior consultant at Summit Sustainability Solutions who helps companies strive for zero harm to their workforce. His specialty is safety culture and enjoys working with people to understand how to think like a risk manager. Email Joseph at jxavier@hpx-factor.com.

*Context model based on research from The RAD Group.
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Cybersecurity For Your Business

When you use the internet for your business, which is most of you, if not all of you, you need to make sure that your systems and information are all secure. It can be a complex problem which needs complex solutions. Without going into some of the more complex issues, there are some safety basics that you can adhere to when using the internet for your business.

Education and awareness are key for cybersecurity basics.

The easiest and most important thing you can do for your business in terms of cybersecurity is lay a foundation of education for your employees. Your team should understand the basics of browsing the internet safely as well as the fundamentals of cybersecurity. This includes things like creating and maintaining strong passwords for each and every one of their business accounts. You should also make sure that your employees understand not to click on harmful ads or suspicious emails to avoid malware infiltration. For educational resources, you should seek out the advice of trusted IT professionals as well as the wealth of free resources online from figures such as the Department of Homeland Security. These resources will arm you with the knowledge you need to maintain a basic level of cybersecurity.

You need to investigate an insurance policy for your data in event of a breach. What is the contracted responsibility of your current carrier? Are you protected from cybersecurity breaches? What are you entitled to when something goes wrong? You can find the answers to these questions by contacting your agent or an agent specializing in cybersecurity risks.

Talk with your cloud provider, server host, and or your IT professional for more detailed information on these topics.

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Tune into AHA! Business Radio Tuesdays from 6-7 pm EST on CBS Sports Radio, 1300 AM to listen to Allan Hirsh and his guests discuss all areas of business. And don't forget to follow Allan Hirsh Advisors on Facebook and Twitter too!
Staying Dry During The Flood Of Sexual Harassment Claims

Steps Your Company Can Take to Create a Non-Discriminatory Work Environment

Since news broke of the allegations of sexual harassment against Hollywood film producer Harvey Weinstein, the dam has breached, and the news has been flooded with reports of sexual harassment allegations against other high profile media figures, journalists, and executives. Sifting through each troubling new development, one cannot help but notice the sheer volume of reports and the many years over which the alleged abuse took place. As we await what seems to be the inevitable – news of yet another claim of sexual harassment against a high profile figure, employers should take this moment to review their own policies and practices for handling claims of sexual harassment to ensure that their company does not get swept up in the deluge.

When you put the latest newsbreak down, here are some important steps to take:

1. Review company policies and procedures:
Employers should maintain a written policy preventing workplace sexual harassment, which could be included in the company handbook or as a stand-alone company policy. The policy should clearly define sexual harassment, contain a procedure for reporting and investigating complaints of sexual harassment, and explain that the employer will take prompt remedial action to end the harassment and prevent its recurrence.

2. Conduct routine training:
Employers should conduct routine anti-harassment training that covers the employer’s policy and procedures, explains what constitutes harassment, teaches how to look for signs of harassment, and instructs employees on the proper response if they suspect harassment has occurred. If employees already receive training, the program should be re-examined for its effectiveness.

3. Set the tone for a positive workplace culture:
Setting the tone starts from the top. Management should be involved and participate in training programs, understand company policies, be able to effectively respond to claims of harassment, understand their obligation to prevent retaliation, and condemn harassment if it occurs. What a positive workplace culture looks like depends on the organization itself. If you are not sure of your company’s workplace culture, consider conducting a climate survey of staff.

Adam E. Konstas is an Attorney in PK Law’s Education and Labor Group. He represents local school boards, superintendents, private schools, colleges, and private sector employers before federal and state courts, and federal and state civil rights agencies on a variety of matters, including employment discrimination litigation, teacher and student discipline, collective bargaining, and sexual harassment. Mr. Konstas also advises schools on the design and implementation of policies and procedures regarding student and employee relations, and system-wide policy issues including the use of online instructional tools and cloud computing, student data privacy, anti-discrimination, and website accessibility.

Mr. Konstas is an adjunct professor of school law at McDaniel College, where he completed a class on “Best Practices for Online Teaching and Learning” and is currently teaching an online school law class. He has also lectured on employment law at the University of Baltimore School of Law. Mr. Konstas can be reached at 410-339-5786 or akonstas@pklaw.com.
SMART Security Pros presents its Mobile Video Guard solution specifically designed for construction and development projects. SMART’s founder, Shawn Scarlata, says “After 22 years in law enforcement and 8 years leading a security guard company, I knew there was a better way. I wanted to start a company that would provide higher levels of security at a lower cost by combining technology and law enforcement experienced personnel. I don’t think of us as a security firm, I look at us as a stress relief company. I want our service to provide stress relief to project managers, superintendents, and event planners.”

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GIFT IDEAS: Toys for all ages! — Dress-up sets, games, books, puzzles, craft sets/supplies, hats, scarves, gloves, backpacks, soft children’s throw blankets, cause-and-effect toys (interactive, pop-ups, buttons, touch/feel)
Construction Company Overhaul

Does your construction company run seamlessly? Do bills to customers get processed and go out timely? And then the customers pay timely? You seldom borrow on your line of credit? The costs on your construction projects are typically less than budgeted? Change orders are approved timely and always available on file? Your accounting department produces a financial statement and job cost schedule by the 15th of the following month? If so, congratulations! However, I assume most of you are shaking your heads.

If there’s something in your organization that just doesn’t feel right or keeps you awake at night, you may have a process that needs to be reengineered. Or you may have multiple processes that could use some TLC. A lean six sigma professional can help you redesign processes to make them more efficient, more relevant and more current.

Imagine all of your project managers use all of the same tools and communicate information to others in the organization in a timely fashion. All of their projects come in on budget. Probably not the case since the human element introduces variation to how we do things. But, if we take the best tools of each of the project managers and implement those as our “process”, we should have improved results.

You may have a strong sense of who your best project managers and estimators are, but an exercise I like is to prepare job schedules with the project manager and the estimator’s names as fields. You can then sort jobs by gross profit percentages and review if there are clusters of the project manager or estimators’ names. Does anyone shine as a super star and can we use that person to train or mentor others? Maybe that person uses a process, software or spreadsheet that we can implement as a part of the process? Conversely, can you identify anyone who may need a little assistance since all of their jobs are at the bottom of the pack?

You can then sort the job cost schedule by over/under-billings to review the same information. You may constantly be nagging one project manager to get their billing done more timely, but a visual may help illustrate the issue. Implementing policies around what is billed and when will help to alleviate these variances.

Additional analysis of job cost schedules can provide a wealth of information on where to focus improvements.

Starting with the job cost schedule is just the tip of the iceberg when implementing lean six sigma in your business. Some other good applications would be:

• the billing process
• the change order process
• the application of overhead and/or equipment costs
• the budgeting process
• and estimating and bidding processes
• the requisition/purchase order/receiving process
• the scheduling process
• the training and/or safety process.

Construction companies have many processes occurring concurrently and that typically means there are a lot of opportunities for improvement. We would welcome a discussion about your company and where you see those opportunities. We even have a tool to help you prioritize the items you are considering for improvement!

Claudia Wolter, CPA, CCIFP, CCA

Claudia Wolter is a Shareholder with KatzAbosch. She serves as Co-Chair of the firm’s Accounting and Auditing Services Group, assists in the quality control management and oversight of the firm and is a member of the Construction and Real Estate Services Group.

Claudia served as a contributing author of “Construction Accounting”, an in-depth guide to construction financial and accounting issues for attorneys distributed by the American Bar Association. Claudia holds the prestigious distinction of Certified Construction Industry Financial Professional (CCIFP), a certification held by less than 50 professionals in Maryland and less than 1000 professionals in the United States, the designation of Certified Construction Auditor (CCA) from the National Association of Construction Auditors (NACA) and a Lean Six Sigma CPA Green Belt certification from Ohio State University ATI and Boomer Consulting, Inc.
A Key Leadership Task - Managing Change

Change is not usually something greeted with enthusiasm by individuals or organizations. Just when you think you have most things figured out, customers, suppliers, subcontractors, regulators and even Mother Nature present you with challenges to the plans you have made and the projects you are working on. The primary tests of your leadership are how rationally you greet change and how your organization and staffers deal with it.

A key first step is to determine that all the dots associated with the change get identified and connected. This means gathering all the stakeholders in the change and getting agreement on the scope of the change, the impact of the change on the stakeholders and forging a plan to incorporate the change into the company’s work. This takes some careful effort to avoid oversimplifying things in ways that mask important issues or defining them so broadly that solutions seem to be impossible to develop. As always, the devil is in the details—details that enable real discussion and make decisions possible. Let’s look at a specific situation that can happen to any company.

I have been in a number of conversations recently with business owners who are wrestling with the changes that result from acquiring new technology, either software or hardware or both. These acquisitions are usually driven by the desire for the company to be more productive in the daily work and also to provide on-going information about the business that makes the business better run and more successful. The sense of those business owner conversations was that not enough effort was being put into assessing the impact of the new technology—positive and negative—on employees and potentially customers before the implementation phase began.

Leaders need to insist that vendors provide proper training of the employees who will be using the technology. The leaders also have to make sure that all of the appropriate resources inside their own organization are mobilized to work with vendors to facilitate the training. In other words, the vendors and the company share the responsibility for a smooth transition. The company should ask vendors to provide detailed best practices about how the technology was successfully implemented elsewhere. I mean successful implementation and acceptance by the employees and positive impact on customers, if the technology has a direct customer impact.

This is simply another example of the desirability of involving people in the design of their own work and empowering them to do that work with new tools. Of course you cannot sugarcoat the fact that work details will be different and new things must be learned. But you can position the conversion effort as a chance to improve their jobs and the company’s success. Not everyone will get on board immediately which brings up another challenge of leadership: reinforcing over and over the tasks that need to be embraced and completed until all are engaged properly in the conversion.

After the conversion is completed, set up a communication process that updates everyone when new software releases are being installed. Better yet, test those releases with the employees that will be affected to see how the changes impact the current ways tasks are done. This will ensure that proper training can be done. Anyone who has a smartphone or tablet knows how frustrating new releases of operating software can be with the lack of information on how things are changed. It’s one thing to deal with that on your phone and quite another when those changes can bring things to a halt in your business because the impact of the changes was not tested ahead of time.

We are descended from ancestors who were faced with really serious changes and adapted and survived. Lead your organization to adapt and thrive.

Paul Riecks is a Principal at INSIGHT. At INSIGHT, we believe that every business has the opportunity and the potential to be as successful as its owners want it to be and deserves the chance to reach that potential. One of the best resources available to business owners and CEOs for help in reaching their company’s potential is the deep pool of knowledge shared with other business owners and CEOs. So what we do is form INSIGHT Groups—each with 10-15 owners and CEOs—and facilitate their monthly meetings where they advise each other, share ideas and experiences and gain the clarity they need to achieve the success they seek. www.gaininsight.net

Back To Table Of Contents
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2017 Maryland Construction Industry Survey Results

[Executive Summary]

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CPAs and Advisors

Maryland Construction Network
In a recent poll of Maryland construction company owners, more than one-quarter said profitability is their #1 concern for 2017. Even more construction company owners – 62% to be exact – told us that finding and retaining good employees is their biggest concern.

What if we told you there is a way to add money to your bottom line AND alleviate the pain of finding and retaining a good employee?

That's where outsourcing the accounting function comes in.

A Tale Of Two Bookkeepers

Let's look at a hypothetical story, based on our past experiences, of a Maryland general contractor that had two in-house bookkeepers in its accounting department. With their combined salaries plus benefits, the two bookkeepers accounted for $170,000 of the company's payroll. Although the two bookkeepers did a decent job, that was a lot of money for two employees.

When one of the bookkeepers decided to retire and the other left the company to stay at home with her children, the company was suddenly left with an unstaffed accounting department.

The owner of the company, Grace, immediately advertised the two open positions, never stopping to consider whether she could approach her company's accounting needs in a different – and potentially less expensive – way going forward. Her company's accounting department had been staffed by two bookkeepers for so long that it just seemed natural to hire two more.

Geez, Where Are All The Good Bookkeepers?

Grace, along with her HR manager, spent gobs of time wading through the resumes of dozens of unqualified job candidates. Some had no bookkeeping experience at all, while some were seasoned CFOs demanding a six-figure salary.

If you've ever been involved in the hiring process, including writing an ad, reviewing resumes and interviewing, you know how much attention it can take away from your regular duties.

After a disappointing round of initial interviews with bookkeeper candidates, Grace's college friend told her that he outsources his company's accounting function to his CPA firm.

Grace was intrigued about this idea and took the time to learn more about the benefits of outsourcing the accounting function.

Time For An Accounting Department Makeover?

Like many business owners, Grace assumed that bringing in a CPA firm to handle her company's day-to-day accounting needs would be too expensive. She was skeptical. But as soon as she finished yet another horrible interview – this time, with a trainer of exotic animals who claimed to have bookkeeping experience – she called her CPA firm. Enter Plan B.

Grace was glad she made that call. Plan B ended up saving her business $74,000 a year in salary and benefits. Here's how …

Grace's CPA explained how it can be hard to know when it makes good business sense to outsource your accounting function. After he listened to what Grace expected from her bookkeepers in terms of day-to-day tasks and reporting, he came up with a plan to deliver that, and more, to her.

After getting her CPA's unbiased feedback about how her bookkeeping staff had been doing things the same way for years, Grace realized that she wasn't getting nearly the bang for the $170K that she thought she was getting. For example …

- Her bookkeepers weren't producing reports that helped Grace and her management team with decision making.
- Some of the accounting department's day-to-day tasks that were essential a decade ago were no longer relevant due to changes in the company's structure and operations. Yet the bookkeepers performed the tasks anyway because no one told
The evolution of technology and the dynamic of people and how they operate has set off a shift on how communication systems are designed and deployed in buildings today. The ever-increasing demand for bandwidth and the focus on network connectivity within the workplace is as important as the air and the power we need in our buildings. Today, the average worker has the expectation that their technology devices should work everywhere they go. Computing devices have grown vastly from just PC’s and VoIP Phones. The rise of IoT (Internet of Things), which includes both building and personal devices require connections to robust and reliable communication systems. With the technology landscape changing, what was the “Building” has now become the “Smart Building”.

IoT Building Devices can be IP Security Systems including Access Control and Surveillance, Energy Management Systems, Wireless Access Points, Digital Signage and Video Walls. When connected to communications systems, these devices can be controlled remotely and easily managed making it very desirable for building owners and users. Systems integration using communication systems makes it easy for facility management to centralize head end equipment within LAN (Local Area Network) Rooms and manage their systems from anywhere using an internet connection. POE (Power over Ethernet) is attractive to building and business owners as these systems consume less power, feature greater efficiency and support Green Initiatives. New technologies can be overwhelming when preparing to build, but communication systems are the lifeline of our businesses and must be planned to support the functionality and operability of the ‘Smart Building’.

When planning for utility systems such as MEP during design, it is important to include the communications systems at the same time. More than likely the utility systems, will have some sort of network interface. Planning the technology early, will result in cost efficiencies later during the build process. Consider standardizing Ethernet cabling systems as your communication system platform to all IoT devices. Operational efficiencies will be achieved through system integration making management simple and flexible. Reliable network connectivity, high performance availability and systems that optimize workforce potential help achieve a positive work atmosphere and excellent customer experiences.

Brett Altberger, RCDD - VP, Marketing
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MidPoint Technology Group specializes in Simplifying Enterprise Technology™, allowing you to stay focused on your core business. We are the central hub of technology systems integrating them to work synergistically. Contact our Elite Team to learn how we can help you design and build your technology systems on your next project. www.midtechgroup.com.

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</tr>
</thead>
<tbody>
<tr>
<td>Construction</td>
<td>Corporate Gifts</td>
<td>Education</td>
<td>Industrial Supplies</td>
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<td>Office Supplies</td>
<td>Shipping</td>
<td>Telecom</td>
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The Art Of Negotiation

This article is NOT about President Trump – I know better then to discuss politics in a business networking publication! However, love him or hate him, he is reputed to be a master negotiator, at least in his pre-President days. He was certainly correct that negotiation is an art, not a science. I wanted to share some of my thoughts and experience regarding negotiations, both from a contract (or subcontract) formation stage, change order level, and even in the midst of contentious litigation.

Contract Negotiations

In the construction world, negotiations begin at the contract stage, with each party jockeying for a better, more favorable contract. But first, what defines a better contract? Indeed, what is a contract? I believe a deeper understanding of what a contract represents will intuitively point to the path of achieving better and more successful contracts and other negotiation results.

A Contract Is A Relationship – Better Relationships = Better Contracts

Ultimately, a contract defines the relationship between two parties. It identifies who is responsible to do what when, and the consequences of failure. However, words on a piece of paper (often, many indecipherable 8 point font words crammed onto many pieces of paper!) can never replace a personal, human relationship. The first step to a better contract, then, is a better personal relationship.

Relationships begin by bonding. Bonds are built, and then strengthened over time. It begins with just one link which leads to a conversation, then another, and another. Much like a bridge, built pier by pier, will eventually reach the other side, so too will a chain of links lead from one individual to another. And the more often you travel that bridge, the more familiar you will become with it, its nuances, bumps and turns. After enough travel, the initial bond has become a shared set of experiences – which is what a real relationship is all about. There is great truth in the old networking tip to ask and then keep track of your customer’s (or potential customer’s) spouse and children’s names and basic current activities, vacation or other travel plans, and then follow-up the next time you speak. (“Did Courtney get in to Stanford like she was hoping for?” or “So how was that trip to Disney over the summer?” really does do wonders for relationship-building!)

People naturally want to work with those with whom they have a relationship. Negotiating, then, with someone with whom you have a relationship with becomes not so much about just the negotiation at hand, but how the negotiation can further the relationship. Incredibly, the negotiation becomes yet another shared experience in the relationship, building and strengthening the relationship for the next negotiation!

Litigation Notwithstanding

Recently, I was involved in a contentious piece of litigation, representing several subcontractors in a payment bond action on a project which was long delayed and otherwise mismanaged. The owner asserted a large liquidated damages penalty, and the GC generically passed them down to its subcontractors, without any analysis as to which particular subs may have contributed to delay. The mud-slinging was fast and furious, with no clear end in sight. However, one day I received a call from one of my subcontractor clients, asking my opinion of a very fair offer which was made directly to him by the GC’s project executive. I asked him how it came to be that such a fair, first offer was made directly to him. What he told me blew my mind - he indicated that he had at least 10 previous jobs with this GC, and that throughout the 4 months or so of litigation to date, he had spoken weekly with the GC project executive, whether to ask for an update, brainstorm on ways to move forward, or even just to check in and say hello.

For my client, the litigation was a necessary evil, but it did not stand in the way of maintaining his relationship with the GC. On the contrary, he used the opportunity to strengthen that relationship, by demonstrating that even contentious litigation was just a mirage of lawyer-speak, and that in reality, their relationship remained rock strong. The GC executive reciprocated, by making it his business to resolve this particular piece of the litigation early and on very fair terms for this client.

Creating Shared Value

In Ronald Shapiro’s The Power of Nice, the concept of
Documenting Change Orders

Construction projects rarely proceed as originally anticipated—changes always occur. Some changes are relatively minor and can be quickly addressed in the field. But other changes are significant, due to either time or materials of the change itself, or the impact of the change on other work. While each change order is unique, there are standard points for all parties to address when a change order arises.

1. **Always use the processes outlined in the contract.**

Most contracts include terms for the change order process. It is important to use the contractual process not only for proper documentation and authorization of the specific change order, but also to ensure that there is not a precedent being set on the project that change orders will be performed or authorized ad hoc. Once the parties begin to use ad hoc approvals of change orders, it opens the door to the possibility that ad hoc undocumented changes, that are large ticket-items, may also be deemed approved. Best to follow the contract process every time for sake of consistency. Also make sure that the change order is in writing and signed by all the appropriate parties. While courts in Maryland and Pennsylvania may choose to enforce oral changes, it is a much stronger case when there is written documentation that proves the changes in dispute. See, e.g., Richard F. Kline, Inc. v. Shook Excavating & Hauling, Inc., 885 A.2d 381 (Md. Ct. Sp. Ap. 2005) (enforcing oral change order); Universal Builders, Inc. v. Moon Motor Lodge, Inc., 244 A.2d 10 (Pa. 1968) (same).

2. **Make sure the change order scope and pricing are accurate and clear.**

Sometimes change orders are documented in writing, but it is unclear what, specifically, they mean. The change order should clarify if it is extra work that was outside the original scope, or if it was a change/substitute for the original design. If appropriate, the change order should clarify the deduction for the deletion of the prior cost, as part of the calculation. If it is a lump sum or guaranteed maximum price contract, the change order should clarify whether it is a modified cost within the GMP cap (or lump sum), or whether it is an amount that will increase the GMP. The change order should also clarify whether it is the full amount for the changed work, or whether indirect costs such as management, delays, overtime, or other acceleration costs will be invoiced separately.

3. **The change order should clarify whether it is an absolute final agreement, or whether any rights are preserved.**

Sometimes, a change order is actually a construction change directive, wherein the constructor is being ordered to complete the changed work; pricing is to be determined at a later point. Other times, the change order work is disputed or under protest either as to pricing or some other term. Whatever specific terms, conditions, preservation of rights, or other unique aspects of the change order exist, make sure that they are documented on the written change order itself. Also, if the contract allows for a variety of change order processes (e.g. extra work; changed work; directives; disputed changes; etc.), then best to identify in the change order which paragraphs and processes of the contract cover the change or dispute at issue.

Changes to scope are common on projects and are often done without issue. But it is also a frequent cause of dispute. When changes arise, best to ensure that it is well documented, and it is advisable to seek attorney advice early and often.

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Don’t Be The Next Victim Of A Cybersecurity Breach!

Every day we hear about new cybersecurity breaches. Earlier this summer, the WannaCry virus demanded ransom as it infected thousands of business computers worldwide. A month later, a similar virus spread, this time with the purpose of disruption rather than for ransom. Cybersecurity is not just a huge concern for business owners, it affects everyone.

However, there are simple steps that we can take to help protect against computer breaches. These are commonsense, but most of us still have trouble doing them. Cybersecurity protection needs to become a routine; something to which we are constantly vigilant.

Passwords - You have heard it many times. Yet most of us just put it on our “to do” list and never get around to doing it. Change and update your passwords frequently. Many security breaches do not happen because of outside hacking. They happen because we leave our passwords laying around or voluntarily give them to someone we shouldn’t have.

Never give your passwords to anyone else – in my opinion, this includes even people you trust, such as your spouse and children. Even if they are trustworthy, they might not be as vigilant as you in protecting the passwords. I discovered this one day when I found a post-it note with my Amazon password stuck to my son’s computer monitor.

If you are going through the effort of updating a password, make sure it is a strong password that contains both upper and lower-case letters, numbers, and symbols. Don’t use birthdates or other obvious passwords.

When available, use two-factor authentication. This adds another layer of security to your online accounts. Typically, you would enter your username and password as usual, and then be required to enter another security code that is sent to your phone.

Lastly, add passwords to your mobile devices.

Internet access - While there are ways to make internet surfing on public wi-fi sites more secure, it is probably best to avoid using unsecure public internet to access sensitive sites, such as your bank account. Wait until you get home on a secure network.

Update Software - Software providers are constantly releasing new updates which include security advances. The WannaCry virus took advantage of users who had failed to update their software. Also, always run the most current security software on your computers.

Phishing/Scams - Phishing occurs when fraudulent emails are sent with the goal of obtaining sensitive data or money. Criminals have set up complex businesses to try to scam people. They send out legitimate looking emails enticing you to click on a link, perhaps to introduce a virus or to install spyware on to your computer. Avoid opening emails or downloading files unless you know for sure that it is legitimate. Remember, anybody can get scammed. Elderly people are often targeted because scammers rely on their generation’s lack of tech savvy.

Social Networks - Cyber-criminals can obtain much information through social media sites. They often use this information for identity theft. Be mindful of the information you post online, not only about yourself, but about your family and friends as well. There are often viral posts going around on social media that trick people into giving up valuable information. For example, a month ago there was a post going around asking people to list 10 concerts they have attended. The instructions read that one of the 10 was supposed to be a lie. The post urged your friends to guess which one was the lie and then repost on their page with their list of concerts. Sharing this kind of information can be dangerous because often you are giving up answers to security questions that are meant to protect your passwords on various sites; questions such as “What was the first concert you ever went to?”.

Back Up Data - Whether your data is corrupted by malware or by accident, having a back-up can bring...
DevOps – Bringing Business Into Software Development

Whether an organization chooses to handle software development and implementation in-house or use a trusted third-party vendor, undertaking development tasks can be a risky endeavor. There is always a risk that the deliverables from a new software project won't satisfy the underlying business need. In addition, projects can suffer from scope creep when business users and subject matter experts don't have full visibility into the path of development and overall design. Missed deliverables and scope creep are major reasons why many in traditional management roles consider IT to be a resource sink, instead of a profit-driving business unit.

Keeping the development process aligned with the business is where DevOps (Development-Operations) comes into play. Rather than being a new process or framework for handing software development and implementation, DevOps is a cultural shift that has traditional IT roles breaking away from the IT silo. Rather than developing in a bubble, based on specifications provided by Business Analysts and Program Managers, the development group responsible for delivering functional software now consists of business users and subject matter experts.

Creating multi-disciplinary teams is not new, but the tendency of IT groups to retreat within their comfortable silos, while not necessarily detrimental, can prevent organizations from using their resources to their fullest extent. DevOps teams which include both the development/IT resources necessary for product delivery and business users who understand the needs and processes of the business can help deliver solutions which are more closely aligned with the organization's business objectives.

DevOps Teams – Two Options For The Same Problem

The key component of thinking about IT development in the DevOps mindset is bringing IT and business together. There are no hard and fast rules regarding how DevOps teams are structured. Some organizations create permanent DevOps teams that bring together development and experienced business specialists. These teams exist as a permanent fixture in the organization, and tackle varied types of projects across the entire enterprise, whether it's a custom line of business application or expanding remote file sharing or document retention systems. However, permanent teams can just as easily become just another team that is a silo; which is what DevOps attempts to prevent.

The more common practice is to create DevOps teams for specific projects or programs. In many instances, these teams have full authority to design, code, test, and deploy the software needed by the business, in a streamlined and very responsive manner. The IT resources may work on other IT projects, and the business users may spend the majority of their day doing their business-aligned jobs, but when the need arises this team comes together to tackle whatever request is coming from the business. By aligning these teams based on the project or product being delivered, an organization can ensure efficient maintenance, upgrades, and enhancements by those that know the product best.

As previously discussed, undertaking large IT development projects can be a daunting undertaking. When approached properly, these efforts can have a positive impact on the organization's bottom line, and as such require the attention they deserve to be successful. By bringing IT and business users together under one umbrella to tackle the challenge, risks can be more easily managed and the delivered product can help the organization meet its strategic goals.

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Liquidated Damages: One Contract Clause That Can Ruin Your Company

Here’s a sad but true story: a subcontractor goes out of business because of a single subcontract clause. In this story, the subcontractor signed a contract for a large commercial project; maybe a little too big for the company. But this subcontractor was at the top of its game, and it completed its project work within the allotted time, within budget (except for some agreed change orders), and without any significant rework. Nevertheless, at the end of the project, this subcontractor got a back charge equal to roughly 40% of the subcontract value. The resulting dispute and cash-flow problems sent the subcontractor into bankruptcy.

How did this happen? The answer is a single contract clause providing for “liquidated damages.”

So what are liquidated damages? Generally, liquidated damages are any contract damages where the parties agree to the amount or measure of damages up front (i.e., at contract formation). In the construction industry, liquidated damages typically are an agreed amount of damages paid on a per-day (or week or month) basis if a project (or a portion thereof) finishes late. For example, it is common for a construction contract to list a substantial completion date for work, and to assess damages of “x” dollars for each day after the substantial completion date that work is still incomplete.

In some situations, liquidated damages can be a fair result. Think, for example, of a popular beach hotel that is being renovated in the winter / spring off-season. Both the owners of that hotel and the contractor know that the renovations need to be complete before the summer busy-season in order for the hotel to continue making money, so they may insert a liquidated damages clause stating that the contractor shall pay “x” dollars each day after May 1 that the hotel is not ready for guests. It seems fair that, if the contractor renovating the hotel delays the hotel’s opening for its peak money-making season in the summer, the contractor should reimburse the owners for the reasonably foreseeable cost of the lost summer business.

Unfortunately, liquidated damages clauses have become all too common, even in situations where they simply have no business being used. Even worse, many modern subcontracts include liquidated damages clauses that can “share” the liquidated damages amongst all subcontractors, regardless of whether a particular subcontractor caused any delay on the project.

Beware any subcontract clause that reads like this one: “If the Prime Contract provides for liquidated damages, and the Owner assesses liquidated damages against the General Contractor, then the Subcontractor shall be responsible for its proportionate share of those liquidated damages.”

I call this a “Broad Form Liquidated Damages Clause.” Now, there may be multiple ways of interpreting such a clause, as well as defenses to it, but I can tell you the way such a clause is regularly used: if there are four subcontractors, each of those four subcontractors is assessed an equal portion of any liquidated damages, regardless of whether all four (or none of the four) actually caused project delay. The general contractor may also “eat” a portion of the liquidated damages.

Taking the beach hotel example, the way this might work is that the project is not completed until after the agreed substantial completion date, and the owner therefore assesses liquidated damages against the general contractor. Let’s assume that the delay was caused solely by a glazing subcontractor. Under a Broad Form Liquidated Damages Clause, the general contractor could assess those liquidated damages down on all of the subcontractors “proportionally,” regardless of whether they individually delayed the hotel project. That is, if there were four subcontractors on the project, a completely innocent subcontractor could find itself back charged for 25% of the owner’s liquidated damages, because that is the “proportion” (one out of four subcontractors) of the liquidated damages the innocent subcontractor has agreed to pay.

That’s fundamentally unfair, right? So what can you do to avoid that unfairness?

Continued On Page 32
Forty (40%) percent of all traffic crashes occur at intersections. Intersections are where two paths cross. Intersections include roadways, train tracks, driveways, crosswalks, and parking lots.

**Traffic Lights.**

The most common type of intersection is the controlled intersection with a traffic light. The controlling factors at this type of intersection are the uniform vehicle codes and the traffic laws. Everyone knows green means go and red means stop. Yellow means you should be preparing to stop since the light will be turning red very soon. Unfortunately, many individuals believe a yellow light means to accelerate so that they do not have to stop for the eminent red light. This type of driving behavior is one of the major contributors to traffic crashes. Quite often the vehicle is going through the light after it has turned red. When this occurs, you are jeopardizing your safety and the safety of others who are following the traffic laws.

**Traffic Signs.**

The second most common intersection is an intersection controlled by traffic signs. This type of intersection requires additional attention since whom has the right of way becomes a major issue. When approaching an intersection, the traffic in the intersection always has the right of way. When approaching a rotary or traffic circle, the traffic in the traffic circle always has the right of way. Every other situation is subject to interpretation. If you are not sure if you have the right of way, it is always best to give the right of way to the other driver. This will reduce the possibility of you being involved in a traffic crash. It is best to yield than to proceed on false assumptions. Misunderstandings about right of way are responsible for many traffic crashes at intersections controlled by traffic signs.

**Driveway or Parking Entrance.**

The third type of intersection is a driveway or entrance to parking area. When approaching these intersections remember there are no controlling signs or signals. Drivers must make appropriate choices when it is safe to proceed. You do not have the right of way in any of these intersections.

**Railroad Crossing.**

The fourth type of common intersection is a railroad crossing. When approaching this type of intersection always proceed with caution. The track signals should indicate whether it is safe to proceed or not. Do not rely on the signals alone. Always slow and look down the tracks to be sure a train is not approaching. Never stop your vehicle on a railroad crossing. Remember, a train cannot stop in a short distance and your vehicle will definitely be involved in a crash.

As a safe driver you must understand the implications of approaching, traveling through, and exiting intersections. The following suggestions are to help you make safe decisions.

**Traffic lights** are designed to control the flow of vehicles through an intersection. By following the signals, you are taking the necessary defensive driving steps to safely travel through an intersection.

- If the light has been green for a long period of time while approaching the intersection (stale green), slow down, cover the brake to reduce your reaction time and proceed with caution preparing to stop since the light will probably change before you clear the intersection.

- If stopped at an intersection, leave adequate stopping distance between your vehicle and the vehicle directly in front of you. You should be able to see the rear tires and some pavement to be certain you have left enough space. Should the vehicle in front not be able to move, you will have sufficient space to drive around it. If you are struck from the rear while stopped, this additional cushion will potentially keep you from being driven into the vehicle in front of you.

- If stopped at a red light, when the light turns green hesitant for a second to be certain someone isn’t accelerating through the yellow / red light and running through the intersection.

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*Continued On Page 33*
How Big Data & Analytics Is Changing The Insurance Business

The insurance industry is moving quickly into the world of data analytics to drive both pricing and risk selection. Traditionally, insurers relied on historical data such as driving records, past losses, and subjective evaluations of application questions. We have already seen the use of credit scoring as a key component to pricing, however this was just the beginning.

Insurers are not only looking for better and more accurate ways to price and select risks, but also ways to be proactive and prevent losses. Let’s look at some examples;

**Customer Retention**

We have all experienced company efforts to retain customers. Loyalty programs are just one example we see at many retail establishments. Call center data and help line calls are another form of unstructured information that can be used to spot consumer dissatisfaction early. By engaging a dissatisfied customer early, the problem can often times be resolved. Social media is another area where people will communicate their likes and dislikes. When we meet expectations, people will often tell no one, when we fail to meet expectations, they are likely to tell everyone, and when we exceed expectations, they might tell someone. Bad reputations travel fast and good reputations take a long time to build.

**Value Of Personal Information**

We all receive requests for surveys when we purchase a product or service. These focus mainly on personal information (income, education level, hobbies, age of residents in household) just to name a few. Companies have found that people will provide this information if it is easy and they give them something of value for same. Knowledge of customer personal information is a gold mine or companies that have the ability to analyze and utilize this data to provide customers with more targeted products and services.

**Social Media**

As people spend more time on social media, a vast quantity of information is there for tech enabled companies to create a profile of both current customers and prospects. The ability to engage people both on a personal and business level can increase both retention and new business opportunities.

**Insurance Industry Structure**

Insurers that use big data will have an edge over those that do not. Smaller companies cannot afford this and it puts them at a competitive disadvantage. We’ll likely see more industry consolidation as the big get bigger,
As 2017 winds down, we all start looking ahead to next year. How will our companies be more profitable, how can we be more efficient, how can we grow?

In managing risk, we always look at how we do things, what the impact might be, and what is probable outcome and financial impact. You can choose to avoid, mitigate, transfer, or assume risk.

There is no right or wrong answer as every company has a different profile and appetite for risk. A large general contractor with 500 million in sales will handle things differently than a small trade contractor with 3 employees.

When I meet with business owners and company executives, they will tell me about their plans for 2018. They discuss financial goals, expense control, business development and operating capital. They rarely discuss managing risk. That is the concern that I will start with them, but I should not have to. Managing Risk has a direct impact on a company’s bottom line! Any risk that could cause a negative impact on your profit may able to be prevented, mitigated, or transferred.

When you make your plans for 2018, include resolutions to protect your business. They should include:

- Have your insurance broker do a full exposure analysis and share it with your accounting and legal representatives. Have your broker may recommendations on where your risk can be better managed and get input from your accountant and lawyer where applicable. For example, making sure your contracts tie-in with your insurance protection is an easy way to manage risk.

- Make sure your safety program is up-to-date and is compliant with the most recent OSHA and MOSH requirements. A lot of companies use “Boiler-Plate” documents that are outdated and don’t address newer regulations. The new Silica requirements from OSHA are an example.

- Insurance and safety are not commodities. They are costs that should be looked at the same as other professional expenses your firm budgets. They affect your bottom line. Resolve to treat your safety and insurance team as professionals.

- Don’t assume your company is best in class in risk management. Be willing to do self-reviews and quality control checks on your processes. Having your broker, your insurance carrier or an outside firm help review your program. Take recommendations seriously and if they are not financially viable, try and budget for future implementation.

- Keep up-to-date on your claims activity (current and past losses) as well as your Experience Modification Factor. These are things that will directly impact the cost of insurance. Schedule time with your broker to periodically review these. Have them give you the projected financial implications as well as recommendations to prevent and mitigate losses.

- Finally, resolve to support your employees by providing a safe workplace. Many times, the best risk management suggestions come from employees. There is only one way to do things and that is the safe way. Cutting corners to get things done faster must be discouraged and doing things the right way must be rewarded.

Companies that treat risk management as a critical part of their business planning can have a direct impact on their net income.

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“You wouldn’t have won if we’d beaten you.” ~ Yogi Berra
my 30 years in this business, and I’ve never seen him come out of a meeting with anything but a positive attitude.

A classic example of this attitude came after a meeting where the two of us presented an unsolicited offer to the owner of an office building. Armed with our market knowledge and an excellent offer we went into that conference room with great anticipation. Thirty minutes later the owner came in, sat directly across from us and proceeded to read the offer. Without saying a word, he crumpled the first page of the offer into a ball and threw it at the other broker. Then he crumpled up the second page and threw it at me before storming out of the room. We talked briefly with his CFO, who was also in the meeting, then quickly exited the building.

Sitting in the car as we were driving away, I was incredibly upset about how the meeting went. I asked my associate what he thought. He smiled real big and said, “I thought it went well.” I looked at him incredulously. “How do you figure?” I asked him.

He responded, “At least we know what he won’t take!”

Ro

(We later sold that building for a good bit less than our original offer.)

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Ro’s experiences in commercial real estate and as a player and coach on NCAA college football teams form the basis for his successful blog, “Ro’s Words of Encouragement.” To learn more about Ro, please visit www.rowaldron.com.

“The best measure of a man’s honesty isn’t his income tax return. It’s the zero adjust on his bathroom scale.”

~ Arthur C. Clarke
call? What players should you replace? Where should you play the game and how? Will you keep doing what you’ve always done or decide to do whatever it takes to grow your business and make a profit? Below is the list of the top “Do-Overs” I hear from the many business owners I have surveyed.

Do-Over # 1: Invest Sooner Than Later!

When your business was busy, you didn’t have enough time to stop and look for investments. And you were growing, so most all of your cash-flow went to fund your company’s growth. The snowball effect was keeping you excited as your business got bigger and bigger. It was like a shot of adrenaline as you did more and more work. The more you grew, the bigger you wanted to get. Volume is addictive, so you bid work too cheap and never missed an opportunity to grow or gain a customer. Everyone thought this gravy train would never end.

As you look back, did all that effort give you a long-term lasting return? Most business owners grew 50% or 100% or 200% in volume. But they didn't make enough to set aside any real money to invest. They spent their extra cash on more trucks and equipment, bigger homes, faster boats, or generous bonuses. Some even lost large amounts of money by not making good decisions as listed above.

The best decisions business owners can make is to use their business to create opportunities to invest in long term wealth building assets. Wealth building assets include investment real estate or service businesses that produce passive income over the long haul. If you had invested as little as $10,000 a year over the past five years, you could own property today worth at least $250,000 cash-flowing $25,000 to $50,000 annually. A small investment over time returns much. No investment returns nothing.

The richest construction business owners I know, own lots of investment real estate or several service businesses that compliment their construction operations. If you were to do it over again, wouldn’t you start investing sooner than later?

Do-Over #2: Diversify, Market & Serve Customers Sooner Than Later!

When business is steady with lots of bidding opportunities coming your way, it’s easy to keep busy working for a limited number of customers doing the same type of projects. This business model works during a good economy. Once you establish a few repeat customers, they continue to feed you work to bid on. You don’t have to go out and find new customers. You don’t have to market or sell. You don’t need an updated brochure or impressive website. And you don’t have to have a customer service or follow-up program. Work is easy to get: wait for the phone to ring, pick up a set of plans, and go bid the job. If you bid enough, you’ll get your share.

The second most popular “Do-Over” I hear from seasoned business owners is they wish they would have built up a broader base of customers, worked on many different type of projects, and developed a solid marketing and referral program that delivered diversified types of profitable work. Today I hear sad stories of underground contractors who kept very busy only doing private housing tracts for a few homebuilders. I also hear similar stories from contractors who didn’t want to mess with government jobs because of all the added paperwork. And I hear stories from companies who didn’t add any extra services like green technology, design-build, post construction services, or maintenance to attract and keep customers. These companies are now left without any customers.

If you were to do it over, what additional customers and project types would you target? Perhaps you would go after at least three or four different types of projects and add a broader list of customers. How would you stay in contact with them? Most business owners say they would have setup an ongoing system to build loyal customer relationships via more lunches, ballgames, and simply spending lots of quality time with them. They would have also developed an automated email marketing system tied into an expanded resource website to keep their name in front of potential customers.

Additionally construction business owners say they would have invested in diversification by adding more in-depth capacity such as in-house engineering, green capabilities, and design-build services. This would have expanded their ability to take on more complicated work with higher profit margins. Lastly, they would
have added service divisions relying on ongoing maintenance accounts that regularly provide them with steady revenue. If you were to do it over again, wouldn't you start diversifying, marketing and serving customers sooner than later?

**Do-Over #3: Hire Better People Sooner Than Later!**

A very big mistake business owners make, as they grow their business too quickly, is not to upgrade their management team and key employees fast enough. They get too busy to take enough time to properly search for, research, qualify, interview, and train their people. As they continue to win more contracts, filling the spots to get the work done becomes a constant problem. They need people faster than they can fill the slots. So they tend to hire anyone who appears to somewhat fit the bill.

As projects also become larger, managers must take on more responsibility and skills to grow along with the company's needs. Because these people are not the right ones for the jobs, it becomes hard to delegate to a less competent and untrained staff. It is hard to hire more experienced people than you need, before you need them. To build a winning team, great coaches always want the best players regardless of what they cost. This same attitude is what makes the great business teams win on a consistent basis.

One of the first mistakes business owners admit to is hiring and promoting the wrong people who are less expensive than fully competent responsible employees. These people are generally weak and untrained to handle the entire job successfully without ongoing supervision and direction. This holds back companies from making the money they should as problems and errors are repeated. To avoid this situation in the future, business owners agree that an experienced management team is key to your company reaching its financial goals. Investing in the best people possible is far more important than landing the next job at too low a margin. Great people allow companies to expand into more difficult and intense types of projects that return a higher profit margin.

Additionally, a systemized ongoing training program for all employees reduces field and management problems, increases customer satisfaction, and improves the bottom-line. With a training program in place, it becomes easier to delegate and make people accountable to achieve the results you want. If you were to do it over again, wouldn't you hire better people sooner and implement an ongoing training program?

**Do-Over #4: Go High Tech Sooner Than Later!**

When you are busy, you don't have time to invest in technology either. You are too busy keeping up with the workload, getting bills paid, and cranking out estimates and bids. Contractors who postponed making technology a top priority let the big business world pass them by. Construction company customers now demand instant communication, project websites, up to the minute schedule updates, online procurement, and building information modeling. With these added requirements to work on many project opportunities today, contractors are now faced with the choice to catch up with tech or just go after the simple jobs with increasing competition and lower margins.

While contractors had no problem hiring another superintendent or buying another truck, they resisted and postponed adding a technology consultant, information technology manager, or the latest integrated construction software package to their cost of doing business. This decision cost them years on the required learning curve and reduced their corporate capability to work on sophisticated projects with the best customers. Now they face an uphill battle to scramble and keep up with customer's requests and requirements.

Even simple home remodel project customers now demand online selection of the many choices for finishes and installation options. The old model of a combination fax / copy / answering machine, cell phone, yellow pad, adding machine, and meeting the customer at the hardware store to look at samples are long gone. A priority must be to install a fully integrated accounting, estimating, and project management software system that allows you to make good business decisions. This takes an investment to buy the best software, fund a training program, and hire a competent progressive manager to implement and maintain it to help you build a professional business. If you were to do it over again, wouldn't you start by installing the best software?
program for your company and hiring a management team member who could maximize it and allow your company to make more money?

**Do-Over #5: What Will You Do Sooner Than Later!**

The last “Do-Over” is your choice. What will you do different to better your company, grow, and make a profit over the next five years? Don’t postpone doing what you know you should do. You walk by people, challenges, and problems everyday that need improvement, change, or tough decisions. Sit down and make your list. Don’t wait. Start investing, diversifying, marketing, serving customers, hiring better people, and becoming a high tech company.

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George Hedley is the best-selling author of “Get Your Business to Work!” As an entrepreneur, popular speaker and business coach, he helps business owners build profitable companies. E-mail: gh@hardhatpresentations.com to request your free copy of “Sure Strategies To Survive A Slowdown!” or sign up for his free monthly e-newsletter. To hire George, attend his “Profit-Builders Circle” academy or be a part of an “Executive Roundtable Group” call 800-851-8553 or visit www.hardhatpresentations.com.

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**TECHNICAL SYSTEMS NARRATIVE**

The experienced engineer provides a technical system’s narrative (and sketches if required) prior to the builder’s bid deadline. The content of the narrative requires the designers to view the project from the builders prospective.

- The builder will require estimated sizes and quantities of the larger equipment such as boilers, chillers, air handlers, pumps, transformers, panelboards, etc.
- Equipment descriptions or equipment cuts are helpful. The builder will be seeking pricing from suppliers and this defines much of the cost.
- Basic system type and control/ method of operation should also be defined.
- Different MEP system types should be discussed, as the builder may have insight of the cost effectiveness of different system. However, the engineer should not invest the time to size all of these systems for the narrative. One system type should be selected for the bid.
- Value Engineering items can reduce installation cost and potentially avoid operational expenses over the life of the facility

**BID PHASE ADVANTAGES – OWNER’S PERSPECTIVE**

The goal of both the designer and builder is to secure the project. The narrative serves the interest of the owner in addition to the design-build team.

- The narrative helps define to the owner the team's
understanding of the scope of work stated in the RFP. Even if this is repeating the scope back to them, it shows you have reviewed the RFP and have included all services required.

- The narrative describes your method of addressing the scope, which can be your competitive advantage over the other bidding teams.

- Providing a listing of multiple system solutions under consideration (pluses and minuses of each in basic bullet form) demonstrates your team has invested time into vetting the options. However, clearly communicate the team has identified the optimal system type and this serves as the basis of the bid.

- Value engineering suggestions also demonstrate the team's knowledge of the project and realistic and innovative design concepts.

- Most importantly a quality narrative demonstrates the team's technical understanding of the project.

DESIGN PHASE ADVANTAGES

The early effort placed into developing the narrative, now places the designer ahead of the game. Having equipment size data early enables the architects and structural engineer to incorporate the MEP systems directly into their design.

CONSTRUCTION PHASE ADVANTAGES

The initial collaborative process between the designer and builder results in a smoother installation phase benefiting all members of the design-build team.

- There is a relationship already established allowing for direct communication to resolve questions or conflicts in the contract documents.

- The builder has provided input early on preventing common pitfalls of constructability.

- The builder had provided reasoning for system and equipment type selections increasing their buy-in to the system selection.

COST VS BENEFIT

There is a cost to producing this information, with no guarantee of winning the project and receiving compensation. The more effort provided prior to the bid, the higher the chance of award. An experienced engineer will collaborate with the builder, determining the level of information they require. An experienced builder will identify the key unknowns, but should have much of the pricing covered on their own, after all, they are committed to the number. Walking side-by-side, the designer and builder minimize their invested cost, simultaneously increasing the potential benefit of award. It is classic risk vs. reward.

### BENEFITS
- Higher Chance of award
- Improved designer-builder communication
- System types vetted together, increasing buy-in
- Architecture-structural coordinate w/MEP early
- Reduced constructability pitfalls
- Reduced number of RFIs
- Increased Profitability of the project

### COSTS
- Design effort of drafting narrative
- No guarantee of compensation

Conclusion

Yes, there should be some level of MEP engineering prior to bid day by producing a technical systems narrative. In addition, the narrative is good for business, the benefits outweigh the sunk costs as it serves the interest of the owner in addition to the design-build team leading to project award and project increased profitability.

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“When you need design Solutions…”
www.ds-engrs.com

Steve provides business development, mechanical & plumbing design, commissioning & building assessment services for Design Solutions LLC.
With the two long-time bookkeepers firmly entrenched in the company’s accounting department, internal controls weren’t as strong as they could have been.

One of the bookkeepers didn’t have adequate training on the company’s accounting software system. As a result it took her twice as long as it should to get her invoices out.

The company’s accounting function probably didn’t need two full-time employees to adequately support it. Had the bookkeepers’ job descriptions been more in line with the company’s current accounting and reporting needs, and if they had better knowledge of the accounting software system, two full-time employees was overkill.

Outsourced Accounting To The Rescue

Grace hired her CPA firm to streamline the accounting function in her company. Together they mapped out a plan to ensure that the accounting function only perform tasks that are absolutely essential to (1) operating the business day-to-day and month-to-month and (2) supporting her management team’s decision making.

Next, an accountant from Grace’s CPA firm assumed responsibility for handling her company’s accounting function. The accountant got quickly up to speed on the company’s accounting needs and settled into his role. In addition to compiling monthly financial statements and handling quarterly payroll filings, the accountant is available to Grace and her management team for questions and guidance any day of the week.

The Cost Savings

The cost of outsourcing the accounting function to her CPA firm was $8,000 per month. At $96,000 annually, outsourcing the accounting function saved Grace’s construction company $74,000 in wages and benefits (by outsourcing, the company no longer had to cover the cost of health benefits, parking and dental insurance).

Grace loved seeing the $74,000 she saved in salaries and benefits go straight to her company’s bottom line. It was an instant boost in profitability! And she didn’t have to meet with anymore trainers of exotic pets claiming to have bookkeeping experience.

The Next Step

Next on Grace’s agenda as she plans big things for next year? She’s going to consider bringing in an outsourced CFO to prepare cash flow projections, improve reporting for her management team, and form a strategic plan for significant growth in the next three years.

If you’re in Grace’s boat and want to explore how you can get more out of your company’s accounting function, talk with Steve Ball, CPA, CVA, CCFIP, director of Gross Mendelsohn’s Construction & Real Estate Group. He is passionate about helping contractors succeed in all facets of business. Steve provides audit, review, compilation, tax, business valuation, succession planning and consulting services for contractors. Contact Steve at 410.685.5512 or sball@gma-cpa.com.
shared value is expertly explained – the best way to get what you want is to help the other side get what they want. And indeed, a real relationship is more about giving than taking. When that sentiment becomes mutual, amazing things can happen.

A subcontractor, by its very definition, is a support role. You are supporting the general contractor in meeting its obligations to the owner. True, you may need the work to make payroll, but that does not diminish the GC’s very real need for your trade’s participation on the job. Generally, a GC’s needs are fairly transparent – quality trade work, adherence to the schedule, timely notification of issues, problems or delays, and working well with both its employees and other subcontractors are some of the obvious ones. If your corporate culture is how you and your team can better serve the general contractor, you will be a valuable and sought-after asset on any job.

This is not to say that you should be taken advantage of, or sign a subcontract which makes you part bank, financing the job, part insurance company, insuring against all potential risks no matter how remote, and part casino, betting the odds of actual payment. On the contrary, in the context of a real relationship, when you stand up and object to the boilerplate subcontract, your objections are viewed in the context of the greater relationship. If you have otherwise governed yourself by how you can make this and previous projects a booming success while making the GC look terrific in the process, then you will see that sentiment reciprocated right back to you.

The Chips And Salsa Effect

Incredibly, Harvard researchers have recently discovered that sharing food during a negotiation – in the case study, eating chips and salsa from a shared bowl instead of individual portions – created a more relaxed and familiar environment, with the negotiators becoming more focused on creating shared value rather than competitive negotiation.

Not every subcontract needs to be negotiated over chips and salsa, but that research can still be harnessed to your advantage – negotiating within the context of a relationship will engender far greater goodwill than outside of one. Importantly, the process of relationship-building begins from the very first encounter, whether it be a cold-call, an introduction by a mutual acquaintance, or submitting a bid, and it should be the focus of all your future interactions. That way, by the time you are negotiating a subcontract, you have formed a base relationship to build from.

I know from my own practice negotiating subcontracts for my clients, if I have a relationship with the attorney on the other side it will be an entirely different discussion than if it is the first time we are speaking. The same is true of our respective clients – if the clients have either had a previous (positive!) relationship, or if a solid foundation to one was begun even if this is the first time they will be working together, the general contractor will be far more open to ways it can modify its “no changes will be tolerated” subcontract, significantly levelling the playing field.

Cultivating real relationships with those in a position to give you work will certainly be to your advantage. Indeed, building and maintaining relationships with those you would like to do business with, especially repeat business, is a critical component of dealmaking. The contract that is formed for that work, then, becomes a reflection of the genuine relationship and shared goals between your two organizations.

Bear in mind as well that as a subcontractor, you are not simply focused on upstream relationships with general contractors, but also on downstream relationships with sub-subcontractors and suppliers. The very same analysis applies with them as well – your success depends on your ability to marshal a strong team upon which you can rely upon to get your scope completed, on time and on budget. A robust relationship with those you need to support you in your mission will engender better contracts, better pricing, and most importantly, better motivation to see you succeed.

Joe Katz is a senior associate at the construction litigation firm Huddles Jones Sorteberg & Dachille, P.C. in Columbia, Maryland. Joe regularly represents subcontractors and suppliers on federal, state and municipal construction projects and has specialized expertise in guiding his clients through the various regulatory requirements unique to government contracting. He also frequently represents clients involved in private sector construction, including housing, commercial, retail and industrial projects. He is experienced in all facets of construction litigation, including mechanic’s liens, Miller Act payment bond claims, arbitration, and civil actions in both state and federal court. He can be reached at katz@constructionlaw.com, or (410) 720-0072.

Continued From Page 17
The solution is at once profoundly simple and yet difficult in practice. Just don't sign a contract with a dangerous liquidated damages clause in it; renegotiate it. Simple, right? “But Jeremy,” some of my clients have sagely remarked, “I don't want to hurt my company's relationship with the client that wrote the contract by making waves.” Here's where things get difficult.

Liquidated damages clauses (and many other contract clauses) are about managing risk. If you sign up for a liquidated damages clause, you are taking on some risk of losing money should the project not finish on time. If you sign a Broad Form Liquidated Damages Clause, you are taking on the risk of losing money for any delay on the project, regardless of who or what causes it. Do you trust every other subcontractor on a project not to delay the project? Do you trust the general contractor not to delay the project? Do you trust the weather? Suppliers? Permitting authorities? Delays caused by any of these things (and many more) could result in your paying for liquidated damages under a Broad Form Liquidated Damages Clause, even if you are innocent of delay.

Here's what I hope you will take away here: before you sign a Broad Form Liquidated Damages Clause, do a gut check and make sure you are willing to pay liquidated damages for every delay on a project, regardless of whether you caused it.

“Jeremy Wyatt is an award-winning attorney at Harrison Law Group. He specializes in construction law, using his skills and experience to help clients get paid and avoid risk on construction projects. You can reach Jeremy by email at jwyatt@harrisonlawgroup.com or by phone at 410-832-0000.”

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AGI specializes in construction bonding and insurance and is part of Sandy Spring Insurance Corp (SSIC), a Maryland corporation owned by Sandy Spring Bank (SASR). Sandy Spring Bank is listed by Forbes as one of America's 50 most trustworthy financial companies.

continued from page 21

…”leaving the smaller insurers with the disadvantage of adverse risk selection and less accurate pricing. Consumers will likely see more individualized products and pricing, as the industry moves further away from risk sharing between what once was homogeneous groups. A wider variance in pricing and offerings will result. The good risks will be cherry picked leaving the poorer risks with fewer options. The other argument to this is that risk will be better matched to the exposure, reducing the practice of the many paying for the losses of a few.

The disciplines and backgrounds of potential employees is moving more to technical and data sciences.

We are likely to experience a much faster rate of change than in the past. Be observant and prepared for the future.

continued from page 23

MCN Is Proud To Be A Member Of The Construction Industry Alliance For Suicide Prevention

Construction Is The Number One Industry For Number Of Suicides And The Number Two Industry In Suicide Rates.

Learn How You And Your Company Can Do Something To Prevent Suicide & Save A Life!

LEARN MORE
Continued From Page 22

- Look left then right then left again before proceeding through the intersection.
- Remember traffic lights don't stop cars...people stop cars.

**Traffic signs** are designed to help traffic pass through intersections. When approaching an intersection always look for the traffic signs; i.e., stop signs, yield signs, traffic turning signs and flashing lights.

- A stop sign means to stop. A complete stop.
- A yield sign means you must wait until traffic clears before you proceed.
- Vehicles in an intersection always have the right of way.
- If two cars arrive at an intersection at the same time, the car on the left must yield to the car on the right.
- Pedestrians always have the right of way.
- It is better to give the right of way than to be “dead right.”

**Driveway or Parking Entrances** require turning. You cannot drive very far without being required to turn. Entering an intersection and making a safe turn requires preparation.

- Signal your intentions well in advance. Signal at least 100 feet before the turn.
- Check your blind spots before turning. Check both sides to ensure someone hasn’t just entered your blind spot. Bicyclists and pedestrians often enter blind spots unknowingly.
- Slow down enough so that you do not need to apply your brake during your turn.

**Braking** is an important consideration as it relates to intersections. Proper braking techniques will make intersections safer.

- Always apply firm even pressure when braking.
- Prepare to brake before entering an intersection. Remove your foot from the gas and cover the brake (place foot over brake pedal, but do not apply pressure) to reduce your reaction time.

- Know your brakes and the distances it takes to stop safely.
- If you have anti-lock brakes, you may feel a pulsing of the brake pedal in a panic stop situation. This is normal. If you feel this sensation do not remove your foot from the brake pedal. Maintain constant pressure to ensure the proper functioning of the anti-lock system. Never pump anti-lock brakes since the computer is applying and releasing the brakes for you at a much faster rate than you can do manually.
- Anti-lock brakes react differently than standard brakes. Do not be misinformed about anti-lock brakes. Anti-lock brakes allow a driver to stop a vehicle while maintaining steering control. It does not mean a vehicle will stop in a shorter distance. Quite frequently anti-lock brakes can increase the stopping distance.

A few final thoughts on intersections...

- Expect the unexpected.
- Scan the intersection for potential hazards.
- Slow down and cover your brake.
- Check your mirrors and your blind spots.
- Drive defensively.

**Drive Smart…**

**Drive Safe…**

**Drive Friendly…**

**Drive Defensively.**

**ITC Safety**

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“No snowflake in an avalanche ever feels responsible.”

~ Stanislaw Jerzy Lec
Begin 2018 With A

The Power Of Storytelling:
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Immediately Preceding The 1st Direct Connect of 2018
Thursday, January 25th, 2018
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Registration - 4:00 - 4:30 p.m.
Featured Presentation - 4:30 - 5:30 p.m.
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Thursday, January 25th – Direct Connect Networking & Pre Direct Connect Seminar
The Power Of Storytelling: “How to Form Exceptional Relationships Through Compelling & Captivating Stories
The Radisson At Cross Keys Village
4:00 – 7:30 p.m.

Thursday, February 22nd – “Wisdom & Wine” Educational Seminar & Networking
“Wading Through: Are You Prepared?”
Union Jack’s Columbia
4:00 – 6:30 p.m.
Registration Opening December 18th

Tuesday, March 27th – Direct Connect Networking & Pre Direct Connect Seminar
“What Works? What Doesn’t” – Case Studies & Upcoming Work
Dutch’s Daughter - Frederick
3:00 – 7:00 p.m.

Thursday, April 12th – “Wisdom & Wine” Educational Seminar & Networking
Embassy Suites – Hunt Valley
4:00 – 6:30 p.m.

Thursday, April 26th – The Blue Book Showcase
FedEx Field – Landover
12:00 – 6:00 p.m.

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Back To Table Of Contents