Protect Your Possessions: Top 10 Benefits of GPS to Track Your Heavy Equipment

One wrong turn and you are in the absolute middle of nowhere. No hope. GPS technology has become a much loved and necessary part of our common life. Most of us can’t even imagine having to use a hard copy map to get us from one place to the next. Even better, that technology is right in our hands thanks to our smartphones.

Even though we use GPS technology almost every day, there are a lot of uses for it we don’t typically consider. One of the best uses for it is expensive and large equipment.

If this surprises you, don’t worry. We will explain so keep reading. Below are ten benefits of GPS for large equipment.

1. Lessen Theft

In 2016 in Texas alone, there were over 2,000 instances of equipment theft. If this is only one state, just imagine how many instances there were in the other 49.

The chances of theft are heavily dependent on several factors including how much equipment is kept in one area and how dependent the area is on agriculture or construction. It’s a shame to think that while you must worry about safety onsite for the employees, you also must think about the safety of the equipment.

This is where the benefits of GPS come into action. By placing GPS technology on your large pieces of equipment, it can make it easier for you to track down if stolen. Thieves won’t make it out under your watch!

If you choose to do so, it can prevent a large number of problems. You won’t have to spend the money to replace equipment, clients won’t grow impatient from the wait, and your whole system of operations doesn’t have to come to a stop.

2. Solutions for Client Accusations

We all know there is the unfortunate fact that you can’t

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4 Undeniable Reasons to Take the Maryland Construction Industry Survey

If you work in the Maryland construction industry, you know better than anyone that finding industry data can be tough.

Luckily, the Maryland Construction Network and Gross Mendelsohn once again teamed up to create a ten-minute survey that polls Maryland construction contractors like you on hot button topics you care about, including:

- Best practices for recruiting and retaining key staff
- How contractors think the industry will change in the next ten years
- Whether contractors think new tax reform laws will affect them in 2019
- Top technology concerns for the construction industry

Why Should You Take the Survey?

1. You’ll Get a Complete Copy of the Results in an Easy-To-Understand Written Report

Everyone who takes the survey gets a complete copy of the survey results. As a survey participant, you’ll be one of the few to receive an exclusive copy of the survey result report (i.e., if another contractor doesn’t participate, they won’t get a copy). This report will feature all of the results of the survey in an easy-to-understand format, meaning:

- Lots of graphs and pictures
- Down to earth explanations of what the data actually means to you
- Practical advice on actions your company should take based on the survey’s findings

2. You’ll Be Entered to Win a $500 Home Depot Gift Card

Everyone who completes the survey is automatically entered to win a $500 Home Depot gift card. So, why haven’t you started yet?

3. You’ll Be Entered to Win a $500 Advertising Credit With the Maryland Construction Network

In addition to the $500 Home Depot gift card, everyone who completes the survey is automatically entered to win a $500 advertising credit with the Maryland Construction Network. Talk about a great way to get your construction company noticed!

4. You’ll Get an Exclusive Invitation to the Survey Result Reveal Seminar and Maryland Construction Network Direct Connect Event

You know the construction industry is all about connections. As a survey participant, you’ll get an exclusive invitation to the result reveal seminar and Maryland Construction Network Direct Connect event. This means you’ll get an opportunity to hear the results first-hand from the construction industry experts who conducted the survey, and discuss them with other contractors like you and get some perspective on what other construction company owners and employees from across Maryland are thinking.

Where Can I Get a Copy of the Survey Data?

To get a copy of the survey results, which will be compiled into an easy-to-read, 20+ page report, you must participate in the survey. The survey only takes ten minutes to complete, and the good news is that there are plenty of perks of being a survey participant.

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CMF AIDS THOSE IMPACTED BY THE GOVERNMENT SHUTDOWN

Carroll Motor Fuels strives to be involved in the communities throughout their footprint and work very hard to give back to them. Carroll Motor Fuels and High’s were proud to donate over $3500 in gas cards, grocery store gift cards and food sourced from a food drive organized by CMF to aid federal employees affected by the government shutdown.

John Phelps, President of CMF and High’s, along with Katie Alford, HR Manager presented the gift cards and donations at a ceremony held at the Department of General Services on Monday, January 28th. Phelps and Secretary Churchill each shared remarks urging support for those affected by the government shutdown. More information regarding MD Helps can be found at https://governor.maryland.gov/mdhelps/

Carroll Motor Fuels is a 4th generation family owned business based out of Baltimore, Maryland. They offer various branded gasoline products including Carroll Motor Fuels, BP, Sunoco and Marathon as well as a full slate of commercial fuels. In 2012, Carroll Motor Fuels acquired High’s and began to build off of the strong heritage that everyone knows and loves. High’s is a chain of 48 convenience stores run by a team of 500 individuals.

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Flu Season Is Now

Flu costs businesses around 10 billion dollars per year.

There is a common misconception around when peak flu season occurs. Many believe that it occurs over the Holidays in November and December. Although you can “catch the flu” at this time it is not actually considered peak season. February is the most common month for individuals so the time to act is now!

On January 11th, the CDC estimated that “so far this season, between 6 million and 7 million people have been sick with flu, up to half of those people have sought medical care for their illness, and between 69,000 and 84,000 people have been hospitalized from flu.” The CDC “expects flu activity to continue for weeks and continues to recommend flu vaccination and appropriate use of antiviral medications.” The map below shows that Influenza Activity is both regional and widespread in Maryland and the surrounding areas.

Weekly Influenza Activity Estimates Reported by State & Territorial Epidemiologists*

*This map indicates geographic spread and does not measure the severity of influenza activity.

Whether you are working outside, have a desk job, or work from home, you are just as likely and susceptible to get the flu as anyone else. It not only is a preventative for you, but your co-workers, family members, and friends as well. Pivot Occupational Health is here to help you and your employees! We have 13 convenient locations throughout Maryland, Delaware and Pennsylvania. All locations are stocked with the following vaccinations:

- FLUCELVAX-QUADRIVALENT: Pre-filled presentation
- FLULAVAL QUADRIVALENT: Multi Dose presentation

Pivot Occupational Health accept walk-ins, scheduled appointments, and offers onsite flu programs for bulk flu shots at your jobsite. Please contact Matt Byrne at 302-290-5597 or at mbyrne@pivoths.com to schedule your shot today!


Matthew Byrne, DPT
Vice President of Sales, Pivot Occupational Health
www.PivotOccHealth.com

Matt graduated from University of Delaware with a Bachelor of Science and Widener University with a Doctorate of Physical Therapy. Matt spent several years as a clinician before transitioning into a Sales and Business Development role for the past 5+ years.
One of the most common questions I receive is whether automatic operators are mandated by the model codes or by the accessibility standards. Currently, automatic doors are not required by the national codes or standards used in the US, although automatic doors can be an alternative when doors do not meet the accessibility requirements for manual doors. There have been several states and local jurisdictions that require automatic doors in certain situations, and now there is a model-code change proposal in progress that is worth keeping an eye on.

The code development cycle for the 2021 International Building Code (IBC) is well under way. Proposal E115, submitted by a representative of the American Association of Automatic Door Manufacturers, calls for some public entrances to have automatic doors. To understand the scope of the proposal, we first need to define which doors are public entrances that are required to be accessible. Currently, the IBC requires at least 60 percent of all public entrances to be accessible, in addition to the following:

- **Parking Structures:** Where direct pedestrian access is provided from a parking garage to a building or facility, the entrances must be accessible.

- **Tunnels and Elevated Walkways:** Where direct pedestrian access is provided from a pedestrian tunnel or elevated walkway to a building or facility, at least one entrance from each tunnel or walkway must be accessible.

- **Restricted Entrances:** Where restricted entrances are provided to a building or facility, at least one restricted entrance must be accessible.

- **Entrances for Inmates or Detainees:** At judicial facilities, detention facilities, and correctional facilities, where entrances are used only by inmates or detainees and security personnel, at least one such entrances must be accessible.

- **Service Entrances:** When a service entrance is the only entrance to a building or tenant space, that entrance must be accessible. When a service entrance is not the only entrance to a tenant space, the service entrance is not required to be accessible.

- **Tenant Spaces:** At least one accessible entrance must be provided to each tenant space, except for self-storage facilities that are not required to be accessible.

- **Dwelling Units and Sleeping Units:** Each dwelling unit and sleeping unit in a facility must have at least one accessible entrance, except that an accessible entrance is not required for units that are not required to be Accessible units, Type A units, or Type B units.

Note: If an area is not required to be accessible, an accessible entrance is typically not required. This means that areas that are exempt from the accessibility requirements are usually also exempt from the requirements for an accessible entrance. Refer to the applicable building code or accessibility standard to learn more about these exceptions.

IBC proposal E115 would require at least one accessible...
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**Consolidated Insurance + Risk Management** is proud to announce their exclusive arrangement with Maryland Construction Network (MCN) to offer member companies a competitive insurance, bonding and risk management services program featuring many additional benefits. Teaming with Consolidated to support the program is **FCCI Insurance Group**, a construction-focused insurance carrier operating in 19 states with regional Underwriting, Claims, and Risk Control support via offices in the Mid-Atlantic region and beyond.

Consolidated Insurance + Risk Management, started in 1969 with roots dating back to the 1930s, is a full-service independent insurance agency in Owings Mills. When it became clear that the traditional approach to insurance was broken, Consolidated flipped the script. Through tailored assessments, their SWT ™ process, and a passion for promoting their clients' brands in the insurance marketplace, Consolidated has become an industry leader serving the Greater Mid-Atlantic region. As a top-tier agent of FCCI Insurance Group, Consolidated was tapped as the program ambassador after 18 months of extensive planning and research. Consolidated's agreement with MCN comes with a proven track record of construction industry knowledge and commitment to Maryland's construction community.

FCCI Insurance Group was founded in 1959 when a group of Florida-based construction executives had to come up with an affordable option for coverage in a challenging Worker's Compensation environment. Since then, FCCI has expanded into 19 states, continues to expand to new territories, and offers a full range of insurance products and surety bonding for the construction industry and many other business segments. FCCI boasts an A.M. Best rating of “A Excellent” with a “Stable” outlook. At the helm of the company is Maryland native Craig Johnson, President/CEO and Chairman of the Board. At present, all but one Board Member on FCCI's Corporate Board of Directors is, or at one time was, the owner or executive of a construction company. Responsible for the design and implementation of the new MCN program within FCCI Insurance is Senior Vice President and Mid-Atlantic/Southeast Regional Vice President Courtney Hart.

Maryland Construction Network is a one stop source for construction business advocacy, industry news, and educational information. With more than 450 members reaching every corner of Maryland, MCN is thrilled to offer member benefits to help build on the exponential growth they have achieved in their six year history. MCN provides innovative education and information, premier networking and marketing opportunities, and preferred industry resources. With exemplary products and services designed by seasoned industry professionals, Maryland Construction Network is an affordable and forward-thinking organization.

For additional information, contact Consolidated Insurance to speak with a Risk Advisor at 410.356.9500 or [click here](#).
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One of the biggest mistakes people make in sales is finding excuses for not calling people. They begin this process by making assumptions and thinking for the client. “This client isn't interested in expanding right now,” they tell themselves. “They won't be interested in my product,” another salesperson might say. Or my personal favorite, and the most deadly of all, “They will never make a move, so calling them is a waste of my time.” Inevitably, within a few months of writing off a client that way, they make a big move - with someone else getting the deal instead of you.

It's human nature to try and avoid hard conversations. Sales is a hard business. I've been doing this for more than 30 years, and even I still occasionally fall into the thought traps I just outlined. But what we have to do as salespeople is force ourselves to take the opposite approach: start making excuses for why you should call that client. As much as we may like to think we know what and how the client is thinking, we really don't know anything until we call them up and ask.

The old adage, “Out of sight, out of mind” holds true in sales as well. If you never call the client, they may start to forget about you. Your client is also human, and prone to the same tendencies that you are. If they never hear from you, they will start making some assumptions of their own about how effective you are and how much work you are putting into their account. There’s obviously a line between regular contact and being a pest, but I think most of us can figure out where that line is with a little common sense. The majority of salespeople that I talk to fall too far on the “not calling” side of that line.

What have you got to lose? Let your New Year’s resolution be to “flip the script” this year. Next time you catch yourself making excuses for why you shouldn't call that client, turn it around and think of a few reasons why you should.

Then; go ahead and make that call!

Ro

Ro Waldron is a commercial real estate broker with 30 years of experience. Licensed in Maryland and Virginia, his area of expertise is the Washington, DC metro area commercial real estate market. Ro has experience brokering deals with the Montgomery County government and a wide range of local and national corporations, representing both tenants and landlords, and brokering both sales and leasing transactions. Contact Ro Waldron at Ronayne.Waldron@avisonyoung.com.
Bank on It: How to Increase Your Chances of Getting a Small Business Loan

In the loan businesses, we look at a number of factors when determining if a business is a good candidate for a loan: character (integrity), capacity (sufficient cash flow), capital (net worth), collateral assets to secure the debt (and conditions overall of the borrower and economy). Call it the five C’s if you'd like.

All are important, but at the top of the list is cash flow. Banks want to be sure that you can make the monthly payment. Typically, we can loan up to 75% of your monthly accounts receivable. We want to know that even after paying your monthly expenses that you still have money left over. You may hear lenders talk about “debt service coverage” of 1.25%, which put simply means that if you are bringing in $1.25 you are putting out only $1.00 to run operations and $.25 remains in your funds.

The same concept applies to your balance sheet. It isn't unusual for small business owners to pay themselves whatever is left over at the end of the year, but banks want to see that you're leaving capital in the business. Don't start out the year at zero. You need to leave something in the business. Call it your “rainy day fund,” if you will.

One of the best ways to increase your chances of getting a loan is to ask for a reasonable amount. Again, that comes back to cash flow and capital as described above. One exception might be if the loan is for an expansion or opportunity that you can prove will increase cash flow and available capital. A bank will want to see any supporting documentation, such as a contract outlining the upcoming opportunity, and most certainly a business plan. We can tell quickly from your business plan and your balance sheet if a loan is affordable or not.

Conditions play a part in the bank's decision-making process as well. Where does your company fit into the economy overall and within your industry? Are there ups and downs in revenue that occur seasonally or cyclically? How are you prepared to deal with those shifts? Other aspects to consider are the demand for your service or product, and the competition.

At Hamilton, we also look closely at character. Your credit history (both business and personal) is part of that. Are you trustworthy? Do you have integrity? We also want to see your office, meet your employees, and understand your plan for the future. We want to get to know you and your business. We also consider how you present your loan package: Is it complete? Organized? Returned on time? Are you responsive to our inquiries?

In today's challenging economic climate, banks have increased their requirements for collateral. They will need to cover the loan amount with adequate collateral. This can take on many forms from accounts receivable to your personal residence. The bank will start with your business but may have to rely on personal assets to shore up the request.

That's why it's best to keep personal debt down to a minimum so that collateral will be available when needed. A good banker will help you maintain a balance of collateral that is acceptable for all parties involved.

Contact me if you have questions about business loans.

Brian Taylor,  
VP – Commercial Lending  
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While working at a company, you may participate in their retirement plan. This is a great choice to save for your future. However, you may be left with questions if you and your employer decide to part ways. One of the most common questions is “What happens to my 401(k) plan when I leave my job?” There are many things to consider when looking at plan assets from a prior employer. Take a look at the most common questions below.

What should I do with my plan assets if I leave my job?

You have several options for your retirement savings after leaving an employer. In general, you can:

• Leave your money in the plan. You can leave your money where it is if your balance is at least $5,000. Your money stays invested and you’re still subject to the plan’s rules, you just can’t contribute to it any longer.

• Roll over your money to an IRA. An IRA can offer new investment options and allow you to gather multiple retirement accounts at one investment company, in one account.

• Roll over your money to your current employer’s plan. If your current plan accepts rollovers, you can roll over the balance from your old plan. Generally, you can roll over your old 401(k) before even being eligible to contribute to your new employer’s plan. In most cases, you don’t pay taxes on a direct rollover.

There are important factors to consider when rolling over money to an IRA or leaving assets in your previous employer’s retirement plan. These factors include, but are not limited to, investment options in each type of account, fees and expenses, available services, potential withdrawal penalties, and required minimum distributions.

Consider costs, investments, and services.

If you’re deciding whether to leave your money in your old employer’s plan or roll it over, here are three things to consider.

• Every dollar you pay in investment costs and account fees takes away from your return. Your 401(k) plan sends you an annual notice of its costs and fees. Compare these to what you might pay for an IRA account.

• An IRA may offer more investment options than your retirement plan. On the other hand, your retirement plan may offer less expensive investment options not available to the public. If you’re satisfied with your current investments, it may make sense to stay in your plan. However, if you’re looking to expand your options, a rollover might be worth considering.

• Once you part ways with an employer, the services you were receiving with your 401(k) plan, such as investment advice, may no longer be available to you. However, you may be able to get similar or additional services elsewhere, either from your new employer’s plan or an IRA. Just be sure to ask how much you’d pay for the services offered.

What happens if I have an outstanding 401(k) loan when I leave my job?

If you have a loan and leave your employer, you must repay the loan in full. Otherwise, the unpaid loan balance will be reported to the IRS as a withdrawal. That amount may be subject to income tax and, if you’re under age 59 ½, you may also owe a 10% federal penalty tax.

Should I cash out my plan assets when I leave my job?

Think twice before cashing out – You can withdraw your entire balance when you leave an employer but doing that will probably cost you. If you cash out before age 59½, you’ll owe a 10% penalty on top of the federal and state income taxes, which could mean years of savings wiped out in a single day. Furthermore, you won’t even get a check for your full balance. The federal government

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I recently read an interesting blog with this title by Glen Trowbridge and Rachael Hable from First American Title and want to share it with you.

“After three long months of volcanic activity from the Kilauea volcano, the most active lava flow on Hawaii’s Big Island has come to a near standstill, as reported by the U.S. Geological Survey’s Hawaiian Volcano Observatory. The near continuous eruptions for the past three months have added new land - over 120 acres to Hawaii’s Big Island, to be exact. The new outcrop of land created by the eruption presently spreads out into the ocean by almost one mile. The question remains, who owns the land created by the flow of lava after it cools?

Lava flows from Kilauea, the most active volcano on the Big Island, have enlarged the island for thousands of years. In 1955, lava flow added nearly eight acres; in 1960, nearly 500 acres; and during the 30-year-long eruption from 1983 to 2013, it added another 500 acres. The last documented eruption in 2016 added five more acres. So, over time, lava flow has extended the land mass on the island.

For existing parcels of land that become covered by lava, the ownership remains the same. However, by definition, new land created by lava didn’t belong to anyone before. Most of the newly-created land formed by the cooling of lava often extends into the Pacific Ocean, lakes, or other waterways. New land created by the lava belongs to the State of Hawaii, generally. Only if the land is formed within the boundaries of a U.S. national park, then it is deemed federal land.

The issue of ownership of extra land has previously been raised and decided by the Hawaiian Supreme Court. Extra land formed by the 1955 eruption bordered property purchased by Maurice and Molly Zimring in 1960. They assumed that their purchase included this additional land by extension. The Zimrings landscaped this new land, planted trees and even paid property taxes on it. You can imagine their surprise when, in 1968, the state served them with a notice to vacate the lava extension and initiated a quiet title action. The Zimrings sued, winning the initial case at trial court, but losing the appeal before the Hawaiian Supreme Court in 1977. The circuit court found in favor of the Zimrings, holding that the state failed to carry its burden of proof to establish its title in the new lava-created land.

The Supreme Court, however, overturned this decision and found that the state had established its title in and to the lava extension, and that it was therefore the rightful owner. The court ruled that the so-called lava extensions were meant for “the use and enjoyment of all the people” (i.e. the state), rather than to serve as enjoyment for the few random property owners lucky enough to adjoin such bits of ‘new land.’ The Supreme Court started with the general proposition that under Hawaiian property law, the land in its original state is public land, and if it is not awarded or granted to a private party, such land remains in the public domain. If you are further interested in the case itself, the cite is: State ex rel. Kobayashi v. Zimring, 566 P.2d 725 (Haw. 1977).”

Please call or email me so I can help you and your company make the best commercial real estate decision!

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Legislative and social changes are necessitating alterations to employment screening practices. This article addresses five topics for which contractors have to be particularly aware.

Marijuana

According to the National Cannabis Industry Association there are currently 11 states that have legalized recreational marijuana use and 22 states that have legalized medical marijuana use. However, the Federal Government still classifies marijuana as a Schedule I drug and is illegal. With the increase of states legalizing marijuana use regardless of the reason, this creates muddy water for employers. Due to the legalization in some states, the current trend in lawsuits is against employers who violate a disability act. The federal American Disabilities Act (ADA) does not make exceptions regarding the use of medical marijuana, however state’s disability lawsuits are finding in favor of a violation.

In 2017, the Massachusetts Supreme Court held in Barbuto v. Advantage Sales & Marketing that a worker could bring suit against her employer for disability discrimination after she was fired for a positive marijuana drug test. The Massachusetts medical marijuana law states that patients cannot be denied any right or privilege because of their medical marijuana use, and the state’s disability law gives employees the right to a reasonable accommodation.

More Millenial’s = More Technology

Millennial’s grew up in an electronics-filled and socially-networked world which spills over into their search for the perfect job. As the world grows more technologically advanced, Millennial’s are looking for employers that have stepped up their game in how they attract new applicants. Millennial’s want to do everything on their mobile devices all while having a seamless experience from the time of application (Applicant Submission/ATS) to the on-boarding processing that offers flexibility and convenience.

Fair Credit Reporting Act (FCRA)

The FCRA applies to any business that uses a consumer report for employment purposes. Consumer reports may include information related to criminal background checks, drug tests, driving records, employment history, credit checks, etc. when conducted by a third party. Simply stated if a company obtains a consumer report about a job applicant or uses a consumer report to terminate an employee, then the FCRA is implicated. If these situations apply to you, then now is the time to reexamine your compliance with the FCRA; if not, be forewarned that violations of the FCRA have led to class action settlements that have cost employers millions of dollars.

The new wave of class action lawsuits are based largely on technical violations of the Fair Credit Reporting Act (FCRA); failure to provide a stand-alone Disclosure or Authorization or failure to follow the correct Pre-Adverse/ Adverse Action notice requirements.

In September of 2018, there was a new page added to the Summary of Rights which explains to applicants how to initiate a free credit report freeze. Get the updated form here.

Ban the Box and Salary History Bans

Ban the Box is not new to the background screening industry but be prepared for more change. As of now, 33 states and over 150 cities and counties have adopted what is widely known as “Ban the Box” so that employers consider a job candidate’s qualifications first—without the stigma of a conviction or arrest record.

However, salary History Bans are new to the game, but on the rise and aimed at ending the cycle of pay discrimination. State and local governments are increasingly adopting laws and regulations that prohibit employers from requesting salary history information from job applicants. Always check with your local and state laws for updates.

Continued on Page 35
The Four Main Functions of a Business & Why You Need to Manage Them Together

No matter how big or small and regardless of where they are on the planet, every business has to manage four major functions in order to exist and thrive. The four functions are Marketing and Sales, Operations/Production, Finance and Administration and Human Resources. Of course, the specific type and size of each business calls for different specific strategies, tactics, skill levels, technology usage and probably hundreds of other items you could mention. But the four functions not only have to exist, they must be managed to work together. And that is where it gets sticky.

The main Task of Marketing and Sales is to get customers and help the company keep them. Operations/Production’s job is to keep services running or deliver the products ordered on time. The role of Finance and Administration is to establish and maintain the monetary health of the company by keeping the books, paying the bills and employees and creating financial strategies that provide the funds for growth. And Human Resources has a wide variety of jobs including recruiting and hiring, managing benefits and personnel regulatory compliance—but the main task is finding the right people for the right jobs who will do the right things.

Whenever you hear about a company in difficulty, odds are that there is some dysfunction inside and/or between functions. Sometimes, one function can get too much power in a company and brush aside ideas for growth or solutions to problems that threaten or inconvenience them, refuse to cooperate with others they need to work with and, worst of all, believe that they are the most important people in the company. If you look at your business from above, there is nothing that is done that does not serve customers directly or indirectly. So here is the sticky part.

The role of leadership is to create a culture that embraces a clear vision of why the company does what it does, how customers benefit from what they are provided and how all work together across function and department lines to deliver what customers have been told to expect. If you have a business that has customers visit your premises, the people who design those premises and the ones that keep them clean and welcoming are no less important than the sales people or the accounts payable clerk. If you have an on-line business, the people who design and host your website and e-commerce are just as important as the customer service people who handle inquiries.

So, think about how you want your four functions to work together and succeed. If you are really small and cannot afford management level heads of each function (besides yourself) there are good, experienced people out there who can help you on an outsourced basis. When you engage them, make sure they work well together for your company’s benefit. That will be great training for you when your company grows big enough to hire those managers full time.

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

Let’s Get the Flock to Frederick!

There’s Always a Great Crowd Dutch’s Daughter Restaurant March 28, 2019
Drying Soils Chemically Using Lime

Lime is a useful tool for earthwork contractors struggling with wet soils. When other drying methods have been exhausted (e.g. using an agricultural disc to turn the soil) and the schedule must be met, a common solution is to bring in lime. Although the term ‘lime’ is used loosely, it’s important to know that stabilizing soils requires either quicklime or hydrated lime. More than one inexperienced contractor has assumed he could cut costs by running down to the local lawn and garden store and purchasing agricultural lime (calcitic or dolomitic lime) for this purpose. Since these types of lime don’t react to moisture in soil, the result is wet soils, wet agricultural lime, and a waste of money.

Quicklime is manufactured by heating limestone (calcium carbonate) to approximately 900°C and grinding it into gravel, sand-sized particles, or a powder. Hydrated lime (calcium hydroxide) is produced by adding a controlled amount of water to quicklime, a process commonly referred to as “slaking.” Because hydrated lime contains chemically-bonded water, approximately one-third more hydrated lime is typically required to dry the soil.

Chemically drying soils is accomplished by applying lime to wet soils to reduce the free (non-chemically bonded) water in the soil to achieve the optimal moisture content as determined by the soil’s moisture-density relationship. Approximately 1% to 2% of granular quicklime by dry weight of soil is normally applied, an amount not generally sufficient to achieve chemical modification or stabilization.

Strangely enough, the most common and costly mistake in lime application is inadequate moisture. When lime touches the moisture in the soil, a chemical reaction begins that causes heat, steam, and a rapid expansion of the lime to several hundred times its original volume. Sometimes additional water must be added to initiate the required chemical reaction. When too little water is available to completely hydrate the quicklime, water entering the soil after compaction causes expansive pressures to develop, resulting in the ground heaving; or even worse a pavement constructed on top. Proper incorporation of the lime into the soil is also necessary. It requires thorough mixing, and adequate time (approximately 24 to 48 hours) for the lime mixture to mellow (react with the soils). The final step requires remixing of the soil. Mixing and mellowing the soil should continue until there are no visible lime particles.

Typical small scale soil drying applications are done using an agricultural disc, bulldozer or other equipment with a toothed bucket. For large projects, speciality contractors that use specialized lime spreading equipment are often utilized. For smaller areas, most chemical drying operations can be done with equipment already on hand. Lime products must also be used with care. Unreacted lime is a very strong alkaline chemical that can cause burns to the skin, as well as damage other surfaces it comes in contact with. The pH of lime is approximately 13, which is at the very upper end of the acid-base pH range. Dust control and proper use of personal protective equipment are critical. Contractors should review the material safety data sheet before beginning lime application.

Finally, lime isn’t a one-trick pony. Increasing the amount of lime mixed with the soil can also be used to modify expansive soils and stabilize clayey soils. An appropriate mixture for these soil improvements should be determined by a qualified geotechnical engineer. The National Lime Association also has several publications available on their website that offers helpful guidance on using lime in construction.

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Founded in 1988, Engineering Consulting Services (ECS) is a leader in geotechnical engineering, environmental consulting, construction materials testing, and facilities engineering. Today, with over 1,700 employees, ECS has grown to more than 60 offices and testing facilities spread across the Mid-Atlantic, Midwest, Southeast and Southwest. ECS is currently ranked 75 in Engineering News Record’s (ENR) Top 500 Design Firms and 163 in ENR’s Top 200 Environmental Firms.
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If you are about to begin a construction project, one of the questions you should be asking yourself is “what happens if my work is damaged prior to completion of the project?”

Builder’s risk insurance coverage is insurance that is purchased to cover the risk of damage to your work during the construction process. Builder’s risk insurance coverage serves a function similar to standard first-party property insurance most people carry, such as homeowners’ coverage. This coverage protects the property from specifically identified perils such as fire.

Often, the project owner or the lender will require builder’s risk insurance, and the cost of this coverage can be negotiated or transferred through your construction contract. Even if the owner does not require builder’s risk insurance, you should still carry this insurance, particularly where the risk of damage to your work in progress, or the cost of replacing that work is substantial.

The coverage provided under a builder’s risk policy is designed to reimburse anyone with an insurable interest in the property for accidental damage to that property during the construction process, prior to completion. Typical policies insure against “all-risks” of physical loss or damage to the property, such as damage caused by fire, lightning, wind and hail, water and gas leaks, explosion, smoke, riot, and vandalism.

Builder’s risk insurance also covers the costs of building materials and supplies that are intended to become a permanent part of the building while such property is near or within the project area. This includes materials stored on-site during the construction process. Builder’s risk insurance policies provide protection for the permanent structure and the equipment and materials installed during construction. Almost all builder’s risk policies cover on a replacement cost basis, although actual cash value coverage is available for renovation projects and projects involving used or refurbished equipment.

Business interruption insurance or consequential loss / “soft cost” coverage can also be purchased through an additional endorsement to the builders risk policy, or through a separate insurance policy. This endorsement protects the owner and contractor from financial losses incurred when the physical project is damaged during construction. These losses include things such as loss of revenue, loss of investment income, liquidated damages, interest expense associated with debt servicing, loan fees to extend or renew, real estate or property taxes, architect and engineer fees, insurance premiums to continue coverage, as well as legal, accounting and other professional fees.

Endorsements available under the builder’s risk policy can also be purchased to cover materials or equipment in storage or transit (a moveable property floater) and to provide coverage for subcontractors’ work in process (an installation floater). Other specialty endorsements are particularly important when the contractor is responsible for specific types of property during installation, such as compressors or other machinery, which are not covered by the standard builder’s risk policy.

Under most form contracts, such as the 2017 AIA A201, the owner is required to procure an “all-risk policy” in the amount of the total value of the project on a replacement cost basis. The insurance required under the A201 contract must include the interests of the owner, contractor, subcontractors and sub-subcontractors as insureds, as well as the interests of any mortgagees as loss payees.

Most standard construction contract forms contain a waiver of subrogation provision through which each party waives the right to recover damages against the other for losses covered by insurance. Because some insurers prohibit these types of waivers without consent of the insurance company, it is important for the party purchasing the insurance to notify the insurer if the construction contract contains such a clause.

Finally, like all other types of insurance, builder’s risk policies have certain exclusions that either limit or eliminate coverage. Often, builder’s risk policies...
Indemnification Clauses in Your Construction Contracts: Beware of Over-Indemnification

Indemnification provisions play an important role in managing the risks associated with construction contracting. Indemnity clauses require one party to take on the obligation to cover the loss or damage that has been or might be incurred by another party. Basically, one party to the contract agrees to assume responsibility for certain liability resulting from third-party claims against the other party to the contract. The indemnification agreement may be a separate agreement, or more typically in construction projects, is embedded into the contract.

Contract clauses limiting liability were quite rare in design and construction contracts until the late 1970’s. See 3 PHILIP L. BRUNER & PATRICK J. O’CONNOR, JR., BRUNER & O’CONNOR ON CONSTRUCTION LAW § 10:85 (West 2018). Limitation of liability and indemnity clauses, however, have become more commonplace over the years.

Historically, indemnity provisions have been typically interpreted to apply to only third-party claims. Id. at § 10:39; Am.Jur.2d 415, Indemnity § 1 (2005) (“In general, indemnity is a form of compensation in which a first party is liable to pay a second party for a loss or damage the second party incurs to a third party”); C.J.S. 94, Indemnity § 1 (2007)(emphasis added); (“In a contract of indemnity, the indemnitor, for a consideration, promises *1048 to indemnify and save harmless indemnitee against liability of indemnitee to a third person or against loss resulting from such liability”) (emphasis added). See also, e.g., Kodiak Elec. Ass’n, Inc. v. DeLaval Turbine, Inc., 694 P.2d 150, 40 U.C.C. Rep. Serv. 155 (Alaska 1984); Schiavone Const. Co. v. Nassau Cty., 717 F.2d 747, 751 (2d Cir. 1983); L.H. Controls, Inc. v. Custom Conveyor, Inc., 974 N.E.2d 1031, 1047–48 (Ind. Ct. App. 2012).

Some states, however, have interpreted broad indemnity provisions to apply to first-party claims, in addition to third-party claims. In large part, this is due to the fact that indemnity provisions are often not drafted in a way that expressly limits the application to only cases of third-party liability. As a consequence, courts will occasionally interpret indemnity language to apply to claims or losses other than those arising from injury to a third party. Wal-Mart Stores, Inc. v. Qore, Inc., 647 F.3d 237, 243 (5th Cir. 2011) (holding that, upon a plain reading of the contract, the indemnity provision authorized an award of attorneys’ fees in the first-party dispute between Wal-Mart and Qore).

A. Anti-Indemnity Statutes

Because the common law did not void broad indemnity agreements on public policy grounds, anti-indemnity laws were enacted to afford protection to those contracting parties generally not in a position to bargain away broad indemnity obligations.

Four Ways to Get Your Retirement Goals Back on Track in 2019

The start of the New Year is the perfect time to sit down and reassess your retirement goals. If you discover that you are no longer on your way towards a secure retirement, now is the best time to course correct. Below are four easy ways to help get your retirement goals back on track this year.

1. Set your goals. It is impossible to get your retirement goals back on track if you are not clear about what those goals actually are. Sit down and ask yourself, “What do I want?” And make sure your answers are specific. If you have a burning desire to travel during your retirement, list the actual countries that you want to travel to. If you want to be able to visit your kids in New York twice a year, determine how much that may cost. Set your goals and be specific.

2. Calculate exactly how much you will need to reach those goals. If one of the countries on your travel list is England, calculate how much a trip like that might cost. If you decide you want to move to Arizona and buy a house, calculate how much that house might set you back. And if numbers and calculations are not exactly your forte, there are calculators out there that will do the heavy lifting for you, including this one from NerdWallet: https://www.nerdwallet.com/investing/retirement-calculator

3. Reward yourself. Putting money away for something that will not occur for thirty or forty years is a tough task, but it is not impossible. To help keep you motivated, try rewarding yourself for hitting certain mini-goals along the way. Did your retirement account finally reach $1,000? Go out and treat yourself to a spa day or buy yourself a nice dinner at a restaurant. Mini-goals can be a pivotal motivating tool towards building a secure retirement.

4. Save up for an emergency fund. It might seem counterintuitive, saving money that you don’t put into your retirement account, but the logic behind it is sound. Withdrawing money from your retirement account to pay for some unforeseen emergency means losing out on precious principal and interest. By having an emergency fund that you can turn to instead, you will help keep your retirement goals on the right track. A good goal to aim for when it comes to your emergency fund is six months’ worth of income.

Considering the distant benefits of retirement and the unpredictable nature of day-to-day life, it is easy to fall off track when it comes to building a secure retirement. But by following the four easy steps laid out in this article – setting and calculating the cost of your retirement goals, rewarding yourself along the way, and saving for an emergency fund – you can get your retirement goals back on track and live out your golden years with the kind of dignity and peace of mind that you deserve.

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Committing to Cybersecurity

Preparing for the Inevitable Data Breach

Cybersecurity is high on the agendas of Boards and Audit Committees because cybercrime is a serious issue that threatens all of us—no matter what type of business we’re in. Regardless of company size, security breaches result in reputational damage, material business disruption, and increased regulatory scrutiny.

Real Estate Update on Cybersecurity

In years past, commercial real estate players were considered less at-risk for cyberattacks because they maintain comparatively less personal information and intellectual property than financial, health care and retail companies. Now, however, the real estate sector is a growing and ripe target for cybercriminals.

In fact, over one-third of real estate firms have experienced a cybersecurity event themselves or at one or more of their properties in the last two years. But in a KPMG survey of real estate professionals, half of the respondents said they were not adequately prepared to prevent an attack.

A lack of understanding on controls over routine business processes such as wire transfers and accounts payable functions have made the real estate sector slow to adopt and budget for cybersecurity. While using a firewall and strong passwords can help mitigate security breaches, comprehensive cybersecurity measures must go beyond typical IT controls to analyze the true risks to your organization.

Meeting the Challenge

‘Cybersecurity’ is the composite of people, processes and technology that are meant to protect corporate systems from attack, damage or unauthorized access. Today’s advanced persistent threats target people, not systems. Successful cybersecurity breaches are the result of human failure rather than technology failure, yet 80% of security spending is on perimeter security (e.g. firewalls, antivirus) which is only effective for 30% of the risk. A strategic gap exists between security risks and security solutions. While we would all like to think that our employees, contractors, vendors and business partners can be trusted, a majority of cyber-attacks are attributed to “known-good” usernames and passwords of users that have been exploited. Your people are your greatest threat. One click is all it takes to derail your company.

What if your credentials were used to commit an unauthorized wire transfer? What if your email account was used to share confidential corporate data that resulted in the loss of a business relationship or the initiation of an SEC investigation? Are your people, processes, and technology pillars aligned so that you have assurance that your business is reasonably protected against cyber criminals? Can you measure, view, and continuously improve your cybersecurity posture? If your answer is no, what does this mean for your businesses?

Governance & Risk Assessment

We believe an effective cybersecurity program must start from the top but must also flow down to each employee of the organization. It is important to have a strong “Tone at the Top”. Cybersecurity should be incorporated in the enterprise risk management process. As we have learned through our reviews, cybersecurity clearly impacts multiple risk areas (e.g. operational, financial, and reputational). Boards play an active role in oversight of the cybersecurity effort. Increasingly, Boards are engaging outside cybersecurity expertise to assess independently their current cybersecurity risk approach and to develop a target for improvement. The NIST (National Institute of Standards and Technology) framework is perfectly suited for this task. UHY’s Cybersecurity Program Assessment uses the NIST framework to evaluate current risks and provide meaningful insight on existing Information Security Programs.

Third Party & Vendor Management

As construction and real estate companies are inherently more interconnected with each other for sharing data or access to systems with vendors, conducting a cybersecurity risk assessment of third-parties is a critical component to managing risk. In addition, companies

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The Time Is Now for Employment Practices Liability Insurance

In 2017, the United States Equal Employment Opportunity Commission (EEOC) received 84,254 discriminatory employment practices complaints. In fact, a staggering 60 percent of all businesses will be sued by an employee at some point in time, yet most don’t have the proper coverage in place to help protect themselves in these situations. That’s what makes employment practices liability insurance (EPLI) so important.

What is EPLI?

Employment practices liability insurance – known as EPLI – protects businesses against employee lawsuits including discrimination, wrongful termination, sexual harassment, invasion of privacy, wage and hour disputes, illegal background checks, pregnancy, and more. While most businesses have general liability insurance and workers’ compensation, these policies exclude the type of claims covered by EPLI. It’s important to understand that EPLI is purchased completely separately from your other policies.

Risky Business

Employee lawsuits are on the rise. And the risk starts from the moment a potential employee walks into your office for an interview. Employees and potential employees can sue an employer for any number of reasons. Even if a claim turns out to be meritless or unwarranted, your business is still responsible for defending yourselves – which often comes with a hefty price tag and lost time. Discrimination claims also open businesses up to irreparable reputational damage and could negatively affect future hiring practices and business relationships.

How to Stay Ahead

As the saying goes, your best offense is a good defense. This certainly holds true when it comes to preventing employee discrimination cases. Having solid human resources procedures in place can help minimize your business’ risk of employment practices exposure. Here are some best practices to follow:

- Ensure your company handbook details employment policies and procedures for reprimanding and/or terminating an employee.
- Have an open-door policy to help your employees feel more comfortable reporting harassment or other infractions without fear of retaliation or retribution.
- Institute a screening program that allows you to eliminate unsuitable candidates prior to calling them in for an interview.
- Have consistent hiring practices for each potential employee.
- Conduct background checks.
- Have clearly defined roles, responsibilities, and progress/performance expectations for all positions and employees.
- Require all employees to sign a formal statement acknowledging that they have reviewed the company’s policies and understand them.
- Conduct regularly scheduled performance reviews and document them in an employee’s file.
- Adopt a zero-tolerance policy towards discrimination, harassment, and substance abuse.
- Document every violation or incident and keep this information in each related employee files.
- Consider creating a social media, email, and communication policy to clearly outline what type of content is permitted to be sent and what employees can say/share regarding their colleagues, the company, and its clients.

Why Now for EPLI?

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Buying another construction firm can be an attractive way to grow your company’s revenue base. A merger or an acquisition can allow you to:

- Add a new subcontracting specialty,
- Acquire an experienced labor force to reach new markets, and
- Deepen your penetration into the market your firm already serves.

But there’s more to mergers and acquisitions than agreeing on a purchase price and signing the paperwork. For example, which employees should be made privy to the transaction? And how do you account for the purchase of your new division or subsidiary? Your legal, tax and accounting advisors can help you navigate the M&A process and employ the latest “best practices.”

Confidentiality

Buying another construction firm can be an exciting proposition. It may be tempting to spread the news that your firm is “in the market” for a merger or an acquisition. You might even think this will boost morale within your firm, because your employees will share in your sense of impending conquest and enthusiasm.

However, best practices in the M&A process caution against discussing your purchase intentions or any of the details of a pending buyout. This is true whether an offer has been made or accepted — or if the purchase is only in the planning stage.

Employees see mergers and acquisitions in a completely different light than owners and key executives. Employees might become afraid, spread rumors and gossip, and speculate about “what-if” scenarios. Even the slightest leak in the acquisition process can snowball into a huge time-waster for your employees and can cause a public relations nightmare. It might also cause unrest among suppliers, customers, lenders and bonding companies.

Accounting for the Purchase

While you might not share your acquisition plans with employees and other stakeholders, never leave your accounting and legal professionals in the dark. They can be invaluable resources throughout the acquisition process.

After all, would you ask your accountant to design a second story addition to your home? Of course not! Accounting for a business combination is a specialized function that should involve your accounting and tax professionals.

Don’t be fooled into oversimplifying M&A decisions. An accountant who specializes in business valuations is uniquely suited to help with buy (and sell) transactions. Below are some examples of key accounting considerations in business combinations.

Mark the Dates

The closing date for a business acquisition is pretty obvious. It’s the date that the papers are signed and control transfers from the acquired firm to your firm. However, from an accounting standpoint, the closing process may not be “over” for another year. Additional accounting evidence may unfold in the months following a merger or an acquisition. Hindsight could impact how you report the transaction.

It is important that at the first year-end after the business acquisition that you consult with your accounting and tax professionals, who will make provisional entries that represent estimates of the remaining assets, liabilities, revenues and expenses that will be recognized in the coming year as a result of the M&A transaction. This proactive step may prevent you from having to restate your tax returns (or your financial statements) in a later year, which could be costly.

Consolidated Financial Statements Required

When one construction company buys another, separate locations may continue to be maintained and the newly acquired company continue to operate as a
Unconscious Bias affects our Design, Construction and Real Estate industry - daily.

We all know this is true...right? Right?

Unconscious bias occurs when we make judgments about people or situations, based on our past experiences, culture, background or exposure to media. It happens to all of us, as human beings, and these unconscious preferences or prejudices can affect nearly every decision we make. In the workplace, however, bias can lead to decisions that may be risky, if they are not informed by objective facts.

Unconscious bias can be a difficult to understand, so to help illustrate the issue, I’ve included examples of unconscious bias noted in a workplace training specialist ELI, Inc. article, “An Introduction to Unconscious Bias,” (https://www.eliinc.com/wp-content/uploads/intro-to-unconscious-bias-eli.pdf):

ELI Example A: “This candidate sounds great.”

Resumes offer a consistent source of unconscious bias. One study gave a group of managers a set of resumes - some were exact duplicates, with only the names changed. Resumes with the Anglo sounding names received substantially more callbacks than those with diverse names. Clearly, it was the names and their associated biases that impacted the decisions, instead of the qualifications and value they could bring to the company.

Activities and commonalities with a prospective employee also affected outcomes. An interviewer’s bias makes a substantial difference in the selection arena. We may be turning away talented applicants for unfounded reasons.

ELI Example B: “She’s not as good with computers.”

Considering a Millennial (Gen Y-er or Z-er), instead of a Baby Boomer for a technical project? This may seem an obvious ‘common sense’ decision, but it may not be wise to base a decision on an idea or belief without supporting facts. By assigning the project to a younger, less experienced, employee, you could potentially sacrifice quality or miss out on an innovative idea. Evaluating competency based on age is a common mistake, and one that could be costly to your company.

The Financial Benefits of Diversity and Inclusion

For those interested in the economics of bias, a study by McKinsey Analysis also noted in the ELI, Inc. report, found a direct relationship between ethnic or gender diversity and financial performance. Companies in the top 25% of racial and gender diversity consistently outperform competitors and national standards. These companies experienced a 0.8% rise in profits for every 10% increase in racial and ethnic diversity on the senior executive team.

Companies with high gender diversity are 15% more likely to outperform; Racially diverse companies are 35% more likely to have higher financial returns. Yes, unconscious bias can affect our bottom line.


My Own Awareness of Bias Against Women in Our Industry

Early in my career, I really tried to be ‘one of the guys’ – and must admit that I shied away from women groups, thinking that joining would simply accentuate any differences. That was my own bias. Although I did not have any female mentors, I did have supportive male mentors. I shrugged off so many comments that may be considered offensive today. I knew my career choice was to be an architect in a male-dominated field, so I felt I should ‘just deal with it and prove my worth.’ I worked hard to exceed expectations, however biased comments were.

I am not one to judge past offenses based upon current understanding of acceptable behavior – there is more important work to be done moving forward and evolving as a human race. I do believe, however that women must be very careful to not ‘expect’ special accommodations, just because we are women. Similarly, persons of color or minority status must be very careful to not expect special accommodations, just because of their minority status. Let’s work hard to exceed expectations.

Perhaps this is my Baby Boomer perspective, but in my opinion, demanding double standards just works against all the hard work of successful pioneers that came before us. Male or female, if you choose to take time off to raise
Steel reinforced concrete walls and slabs have always had their place as foundation systems. They are now considered to be suitable above grade alternatives to conventional construction, where their strength and durability are even more effective.

- Conventionally formed concrete floors and walls are built with site-assembled forms that are removed once the concrete has hardened. The formwork assembly can incorporate clips or pins for holding insulation within the assembly to provide for a well-insulated structure.

- Autoclaved aerated concrete is a lightweight cellular concrete system. Preformed blocks are stacked with thin set mortars, and reinforced where required. It is lightweight and can be easily cut in the field.

- Concrete masonry, or concrete blocks have long been used for wall construction. They can be insulated, can be prefinished with a variety of textures and colors, or can accommodate a variety of site applied finishes.

- Precast systems are becoming more popular for panelized construction. Larger panels can be fabricated off site and trucked to the job, or cast on site and tilted into position. Insulation can be incorporated within a “sandwich” of concrete.

**Make it Strong**

Concrete can play a vital role in providing stronger homes, businesses, and communities. Build with concrete and enjoy peace of mind knowing you are providing unsurpassed safety for the building’s occupants. Concrete structural systems have an inherent staying power unmatched by lighter weight, less robust, conventional systems. Hardened concrete finishes give the outside better damage resistance as well.

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**Five Solid Floor and Wall Systems:**

- Cast-in-Place, Precast, Tilt Up, AAC, Conc. Masonry, ICF
- Cast-in-Place, Precast, Tilt Up, AAC, ICF
- Stucco, Fiber-Cement Siding, Manufactured Stone, Concrete Masonry Veneer
- Variety of Colors & Textures
- Concrete, Concrete Masonry
- Concrete Sea Walls, Flood Walls
- Traditional, Permeable Pavers, Pervious Paving

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**Build It Better With Concrete**

**Major Storms Surge**

The widespread devastation caused by Hurricane Sandy is another reminder of the major destruction natural disasters can leave in their wake. In the United States alone, the storm affected 24 states with particularly severe damage to New Jersey and New York. Total damage estimates are in excess of $60 billion dollars. After this storm, the public, more than ever, recognizes the long-term safety, durability, and value concrete building systems can provide.

Overall, the building envelope is the first line of defense against the intrusion of wind, water, wildfire, and debris. Many failures start when a component, or piece of light-weight cladding, is blown off, allowing wind and rain to enter. Uncontrolled entry of wind creates internal pressure, combined with external pressures, that can literally blow a structure apart.

There are a variety of ways to incorporate concrete to make projects more durable and disaster resistant. Concrete wall, floor, and roof systems offer an unsurpassed combination of structural strength, fire, and wind resistance. Add hardened exterior finishes for walls and roofs, and your home or business will have the best combination of strength and security available.

**The Resilience of Concrete**

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<td>Cast-in-Place, Precast, Tilt Up, AAC, Conc. Masonry, ICF</td>
</tr>
<tr>
<td>Floor Systems</td>
<td>●</td>
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<td>●</td>
<td>●</td>
<td>●</td>
<td>●</td>
<td>●</td>
<td>●</td>
<td>Cast-in-Place, Precast, Tilt Up, AAC, ICF</td>
</tr>
<tr>
<td>Finishes</td>
<td>●</td>
<td>●</td>
<td>●</td>
<td>●</td>
<td>●</td>
<td>●</td>
<td>●</td>
<td>●</td>
<td>Stucco, Fiber-Cement Siding, Manufactured Stone, Concrete Masonry Veneer</td>
</tr>
<tr>
<td>Roof Tiles</td>
<td>●</td>
<td>●</td>
<td>●</td>
<td>●</td>
<td>●</td>
<td>●</td>
<td>●</td>
<td>●</td>
<td>Variety of Colors &amp; Textures</td>
</tr>
<tr>
<td>Storm Shelters</td>
<td>●</td>
<td>●</td>
<td>●</td>
<td>●</td>
<td>●</td>
<td>●</td>
<td>●</td>
<td>●</td>
<td>Concrete, Concrete Masonry</td>
</tr>
<tr>
<td>Retaining Walls</td>
<td>●</td>
<td>●</td>
<td>●</td>
<td>●</td>
<td>●</td>
<td>●</td>
<td>●</td>
<td>●</td>
<td>Concrete Sea Walls, Flood Walls</td>
</tr>
<tr>
<td>Pavements</td>
<td></td>
<td></td>
<td>●</td>
<td>●</td>
<td>●</td>
<td>●</td>
<td>●</td>
<td>●</td>
<td>Traditional, Permeable Pavers, Pervious Paving</td>
</tr>
</tbody>
</table>

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Under the Tax Cuts and Jobs Act, contractors are now able to take a deduction for the full cost of machinery and equipment purchase made each year. This new provision is referred to as 100% bonus depreciation and there is no limitation on the amount of purchases. The provision is available for assets acquired and placed-in-service after September 27, 2017. Under the old tax law, bonus depreciation was limited to 50% of the asset purchase price. The new provision also allows bonus depreciation to be applied to both new and used property. Moreover, prior bonus depreciation rules were limited to new purchases only. This new provision allows contractors immediate cost recovery on equipment purchases in the year of purchase. The chart below shows the phase-out of bonus depreciation under the new provision.

<table>
<thead>
<tr>
<th>Placed-in-service year</th>
<th>Bonus depreciation percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sept. 28, 2017 – Dec. 31, 2022</td>
<td>100 percent</td>
</tr>
<tr>
<td>2023</td>
<td>80 percent</td>
</tr>
<tr>
<td>2024</td>
<td>60 percent</td>
</tr>
<tr>
<td>2025</td>
<td>40 percent</td>
</tr>
<tr>
<td>2026</td>
<td>20 percent</td>
</tr>
<tr>
<td>2027 and thereafter</td>
<td>None</td>
</tr>
</tbody>
</table>

Not only did the Tax Cuts and Jobs Act provide 100% bonus depreciation, it also increased the limitation for section 179 deduction on new or used purchases. The new tax law increased the 179 deduction limit to $1,000,000 and the investment phase-out threshold to $2,500,000. This compared to the old tax law deduction limitation of $510,000 in 2017 and $2,030,000 phase-out threshold. The section 179 increases are effective for property placed in service after December 31, 2017.

A second key change in the tax bill is the new Section 199A pass-through entity deduction. For tax years starting after December 31, 2017, a 20% deduction will be allowed for taxpayers who have qualified business income from an S-Corporation, Partnership or Sole Proprietor, subject to limitations.

The 20% pass-through deduction is limited to the lesser of 20% of their pass-through business income or the greater of the following two options - Option A is 50% of his/her share of W-2 Wages paid with respect to qualified business income and Option B is the sum of 25% of his/her share of W-2 Wages plus 2.5% of the unadjusted basis of qualified property. The wages or wages plus capital limitation do not apply to taxpayers with taxable incomes below $315,000 (joint filers) or $157,500 (other filers). Taxpayers eligible to claim the full 20% deduction on qualified business income will incur a maximum effective tax rate of 29.6% on qualified business income.

<table>
<thead>
<tr>
<th>Section 179 Deduction</th>
<th>2019</th>
<th>2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum Section 179 deduction</td>
<td>$1.02 million</td>
<td>$1.0 million</td>
</tr>
<tr>
<td>Phase out for Section 179 (annual equipment purchases exceeding)</td>
<td>$2.55 million</td>
<td>$2.5 million</td>
</tr>
</tbody>
</table>

Another currently active change is an increase in the exempt amount for small contractors. Previously,
The Legal Implications of OSHA Drone Inspections

On January 23rd, 2019, OSHA penalties increased by 2.5 percent to account for inflation, which compounds steep increases to OSHA penalties made in 2016. OSHA penalties are costly construction expenses that employers would do well to avoid whenever possible. As such, it is vital that employers not only remain diligent with its safety programs, but also stay up-to-date on the latest changes to OSHA regulations and penalties and have a strategy in place for OSHA inspections. This is particularly true with drone inspections, which can lead to potential privacy concerns. Here, construction lawyer Tracy L. Steedman discusses the legal implications of an OSHA drone inspection and how employers can plan for these and traditional OSHA inspections.

2018 OSHA Memorandum Allows for Drone Inspections

Early in 2018, OSHA released a memorandum to its staff formalizing its use of drones for worksite inspections. Each of the agency’s 10 regions are now required to have a staff member oversee drone operations and reports drafted by drone teams. Nine inspections were conducted with drones in the past year, typically in instances where the site was deemed too hazardous for human entry, such as after a building collapse or explosion.

Your Rights and Legal Concerns During an OSHA Inspection

The OSHA memorandum also specifies the parameters under which OSHA employees must act when conducting a drone inspection. Be aware that OSHA must request the worksite manager’s permission before conducting a drone inspection. An employer is under no obligation to allow OSHA permission to inspect their site using drones. When it comes to multi-employer worksites, it is uncertain whether the granting of permission by one employer affects the rights and ability of another employer to deny OSHA access.

OSHA is also attempting to obtain a Blanket Public Certificate of Waiver or Authorization (COA) from the Federal Aviation Administration (FAA) so they may operate drones at worksites nationwide. This leaves uncertainty as to whether this will change OSHA’s by-permission drone policy.

Additionally, drone footage can also capture a larger view of a worksite, which may expand the ability of OSHA to identify hazards “in plain sight.” Drone footage may also have the potential to capture trade secrets on camera, potentially putting the employer’s business strategies in jeopardy. As such, it is vital to speak to a construction lawyer prior to allowing OSHA to use drones for worksite inspections.

Strategies for Handling an OSHA Inspection

Whether OSHA requests to conduct a standard inspection or drone inspection, it is important to have a strategy in place to handle such inspections. Worksite employers have the right to request an inspection warrant prior to an OSHA inspection. Additionally, employers should speak with OSHA inspectors to ensure the inspection is limited in scope. Worksite supervisors are also encouraged to walk through the inspection with the OSHA inspector, taking the same measurements and recording the same data as the inspector. This helps to ensure that the employer has their own personal record of the inspection. Unfortunately, drone footage can be difficult or impossible for employers to replicate, so it is important for employers to decide carefully before allowing a drone inspection to be conducted.

Talk to Tracy L. Steedman about OSHA Inspections Today

While jobsite accidents comprise a large portion of OSHA inspection requests, these requests may also be made by a disgruntled or terminated employee, and as such, employers receive an inspection request when they least expect it. As an employer, you have certain rights when OSHA appears at your jobsite. Always consult a construction lawyer before engaging with OSHA, such as Tracy L. Steedman of Adelberg Rudow. Tracy has 15+ years of experience in the construction industry and is well versed in OSHA regulations and laws. To learn more about your rights during an OSHA investigation or to challenge an OSHA fine or penalty, contact Baltimore construction lawyer Tracy L. Steedman of Adelberg Rudow today.
make everyone happy. Someone is bound to complain here or there. Luckily for you, one of the benefits of GPS is being able to show evidence of progress.

Some clients may claim products weren’t delivered as quickly as they could have been or that your driver was lazy. While this may be so, you have the evidence to prove whether or not it was.

GPS allows you to track the route used, how long it took to complete the route, and much more. Some GPS technology will even alert the user about road closures, accidents, and detours. All of these can be taken into account.

If someone claims you didn’t work hard enough, not only can you present the amount of time it takes to manufacture and package a product, you can present the time it takes to deliver it.

3. Driver Safety

Speed limit signs are important and keep people safe. However, not everyone follows those rules, especially with the right driving playlist. But this can be very dangerous when driving large trucks and heavy equipment.

One of the best benefits of GPS technology for large trucks and equipment is keeping the drivers accountable for their driving habits. Were they following the correct route? Were they following the speed limit?

Unlawful driving can cause not only accidents on the road for the driver and surrounding vehicles, but it can also cause large legal issues. Neither of these situations are situations that need to happen.

4. Unusual Circumstances

While unusual happenings and missing person cases don’t happen often in the case of delivery truck or semi-truck drivers, it’s still a possibility.

There have been cases of missing drivers, missing trucks, missing equipment, and whatever else possible. Whether these cases were due to the force of someone else or a driver gone rogue, GPS technology will allow you to track the equipment.

Once the equipment is tracked, this will also hopefully lead you closer to the driver.

5. Equipment Upkeep

Making sure your equipment is in great condition can be a tall order in itself, especially if you’re trying to preserve new technology. GPS tracking for construction equipment is useful because much of the technology can be programmed to keep up with things such as oil changes.

Writing everything down in a log or journal can become tedious, and quite honestly, you might forget sometimes. With the GPS keeping up with everything, you can take some of the weight off your shoulders.

Diving deeper into the technology, it can even report engine idling and run time. These factors are important when considering engine repair costs and fuel economy.

Watching over the mileage is key when dealing with large pieces of equipment. It’s better to be prepared for repair or upkeep than wait until it’s too late.

6. Accuracy in Costs

Not only can GPS technology prevent theft and track mileage, but it can also help you create more accurate costs for your services. By knowing exactly how much fuel and how many miles your drivers must travel, you can charge customers a fair cost.

It also comes in use when paying your drivers. You can see how much time they spent working and driving on the road compared to how much time they used to stop for coffee along the way.

The best part for you is, you don’t even have to get out of your chair to figure everything out. The GPS can report the numbers and you do the rest. It’s much easier than leaving to individually evaluate all equipment and drivers.

7. Lower Fuel Consumption

No boss wants to believe their drivers are capable of making up imaginary numbers about time spent driving, idling, or sitting still in a parking lot to soundly sleep. However, some drivers do tend to make things up.

Fortunately for you, you have all the numbers you need to know. You can track fuel usage. Just an hour of idling along can use up to a gallon of fuel, and no one has the

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time or money for that.

When reimbursing expenses used on the road, refer to the numbers and alerts the GPS provided. Not only will this alert you on fuel economy, but it also keeps drivers accountable. Advanced GPS technology, can even alert you when the driver is filling up!

Fuel isn't cheap, and most of us are doing anything we can to improve the fuel economy of our equipment and vehicles.

8. Improved Efficiency

By being able to have accurate numbers right in front of you when operating large equipment, you’re able to plot out how to use the equipment more efficiently. This can include anything from fuel efficiency to efficiency in delivering products on a busy highway.

GPS technology is able to alert you of any major accidents, traffic delays, police, and detours that may take up some of your time. By being able to even look at the route before you start your journey, you’ll know what areas to avoid.

Pre-planning is especially important when dealing with clients. They will want things delivered as quickly as possible. If they are not, clients could grow impatient, and you could lose business opportunities in the future with them.

Not only should you be utilizing the benefits of GPS technology, make sure to train your drivers on how to use it. This will assist them in making decisions on the road.

9. Decrease Unauthorized Use

While it seems like something you shouldn’t have to worry about, workers may use the heavy equipment for their own personal projects. Whether they need to transport something or need equipment for personal home improvements, there’s always the possibility of unauthorized use.

Even if your employees have always proven themselves faithful, it’s a good idea to sit and record the hours and times of equipment use. By letting them know this is part of your routine, they will be discouraged from misusing their resources.

You may even place warning labels on the pieces of large equipment letting users know about the installed GPS technology. Once they notice the warning, they will not want to inappropriately tamper with the equipment.

10. Overall Company Improvement

One of the biggest and broadest benefits of GPS technology for large equipment is overall growth for your company. Not only will you experience a greater sense of efficiency and accuracy in your company, but drivers will also be held at a higher standard.

All of this results in happier customers, a greater confidence in the workplace, and a satisfied boss. Your company will be thriving with decreased trip times and fewer incident reports.

GPS technology could be the saving factor for your business.

Many Benefits of GPS Technology

Above are ten wonderful benefits of GPS technology for the large equipment of your business. Between preventing theft, decreasing equipment misuse, and improving fuel economy, you can’t go wrong with GPS!

Install it in your large equipment and train your employees on the new improvements. It’s important to let them know about the new technology because if it comes as a surprise, they may become offended you’ve been tracking their work with no warning.

If you want to know more about anti-theft safety, security technology, or video surveillance, make sure you check out the rest of our site. It’s better to be safe than sorry!

Shawn Scarlata
CEO, SMART Security Pros

SMART Security Pros through its Mobile Video Guard solution protects construction sites, equipment yards, scrap and recycling yards, utility infrastructure sites, among other types of locations. After 22 years in law enforcement and 8 years operating a large security guard firm, the founder Shawn Scarlata knew there had to be a better way. Shawn set out to develop a solution that provided higher levels of security at a fraction of the cost of guard services.
How Do I Take the Survey?

To start the survey, click here. The survey only takes ten minutes to complete. Make sure you complete and submit the entire survey by February 19, otherwise you’re going to miss out on all the perks (i.e., survey result report, gift card and advertising credit and exclusive seminar invite).

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exterior public entrance to have an automatic operator, for buildings in specified use groups with occupant loads over a certain threshold. If the current proposal is approved, the requirement would apply to assembly occupancies (Group A-1, A-2, A-3, and A-4) with an occupant load greater than 300 people. It would also apply to business, mercantile, and Group R-1 residential occupancies with an occupant load greater than 500 people (Group R-1 facilities are typically hotels, motels, boarding houses and other transient living facilities with more than 10 occupants). The proposal requires the automatic operators at these entrances to be full-power-operated doors or low-energy automatic doors. Power-assist operators that reduce the opening force but still require manual operation would not meet the requirements.

Although the proposal was approved by the technical committee, there were 3 public comments submitted which could modify the proposal. The public comments could increase the number of doors which require automatic operators – none of the public comments proposed disapproval of the proposal, although there’s a slight chance that the proposal could be disapproved. It’s too soon to know for sure what the final outcome and exact code language will be, but this will be clarified as the code development cycle continues.

One of the issues addressed by public comment is related to a change made in the 2017 edition of ICC A117.1 – Accessible and Usable Buildings and Facilities. Although this edition of the standard is not yet referenced by the model codes, it requires public entrances with automatic operators to have full-powered automatic doors or low-energy automatic doors. This edition of the standard also requires the corresponding vestibule door(s) to have the same type of operator as the exterior door. The A117.1 requirement for public entrances is intended to establish that when an automatic operator is required because of a project specification, owner preference, code or other mandate, an automatic operator (full-powered or low-energy) must be used rather than a power-assist operator.

While these changes have not yet been officially added to the model codes, I think it's safe to say that the requirements for automatic operators will increase in the coming years. If the 2021 IBC requires automatic operators for some public entrances, this would become enforceable when a jurisdiction adopts that edition of the code. It's likely that the requirement would only apply to new buildings and renovations, and that existing buildings would not have to be modified. However, given the preference toward automating doors at public entrances, facility managers and architects may want to consider providing this accessibility improvement sooner rather than later.

Lori Greene, AHC/CDC, CCPR, FDAI, FDHI, is the manager of codes and resources for Allegion. She has worked in the door and hardware industry for more than 30 years, and in her current role she provides education and support on code requirements pertaining to door openings. Her website, iDigHardware.com, is a daily blog that also includes technical articles, videos, on-demand training, and a downloadable code reference guide. She can be contacted by emailing lori.greene@allegion.com.
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takes their 20% tax up front upon your distribution.

What are the withdrawal rules?

Make sure you can get your money when you need it – In general, you can withdraw money from an IRA whenever you want. Employer plans, on the other hand, may limit how often you can withdraw, even after you leave the company. If you’re retired or retiring soon, make sure your plan’s withdrawal rules work for you. If you think you’ll need to access your money more often than the plan rules allow, consider rolling over to an IRA. Typically, you must begin withdrawing from your retirement plan accounts and IRAs when you reach age 70½. However, money in a Roth IRA is not subject to required minimum distributions (RMDs) during your lifetime. So, if you have Roth assets in your retirement plan, a rollover to a Roth IRA can protect those assets from RMDs and you can withdraw them on your own schedule.

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The Prosperity Consulting Group, LLC
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should ensure an effective vendor management program is in place to address due diligence over new vendors, contractual agreements, ongoing monitoring, and termination of vendors.

Training & Awareness

The most important firewall in the organization is the human firewall. It is important for firms to train employees on cyber and social engineering attacks such as targeted phishing campaigns, wire transfer scams and spoofing attacks. Companies should assess the effectiveness of current training and awareness programs, develop a new program to support business needs, and provide specialized training to address the areas of greatest concern to the company. Training should occur annually and be event-driven for recurring processes such as onboarding, new software provisioning and implementing new policies and procedures related to information security.

Incident Response Program

Companies should designate a central incident response team to evaluate the effectiveness of their existing incident response capabilities, identify opportunities for improvement and develop a target incident response program that meets the requirements of their business. Companies that rely on third party service providers need a program that also measures the associated cybersecurity risks of their vendors. Overall, the goal is to develop a program that effectively manages cybersecurity risk, provides evidence of internal controls, ensures compliance with government or industry regulations, and achieves consistency between clients and vendors.

Conclusion

Since cybersecurity is simply an exercise in risk management, it is essential that the risk strategy be managed throughout the organization; not just within IT. The key to managing cybersecurity is to address the issue as a strategic business risk.

David King is a Senior Manager within UHY’s Internal Audit, Risk & Compliance Group. By working with David and UHY’s Cybersecurity Services Team, real estate and construction companies are able to align their people, processes, and technology so that employees and procedures are converted from the weakest link to cyberrisks to the strongest cybersecurity defense. Moving forward, these organizations will have the ability to measure, view, and continuously improve their cybersecurity posture by utilizing the frameworks, templates and accelerators provided by UHY. To find out more, please email cyber@uhy-us.com.
Yet, those anti-indemnity statutes may not affect whether an indemnity clause applies to first-party claims. For example, Virginia’s anti-indemnity statute for construction and design contracts does not prohibit first-party claims, but simply prohibits a party from indemnifying another for damages caused by the indemnified party’s own or sole negligence. Va. Code Ann. §§ 11-4.1 and 11-4.4.

B. Maryland’s Interpretation of Indemnity Provisions

While Maryland’s anti-indemnity statute is similar in appearance to that of Virginia mentioned above, Maryland courts have arrived at a different conclusion in its application when it comes to “sole” negligence. Pursuant to § 5-401 of the Maryland Code:

A [construction contract] . . . purporting to indemnify the promisee against liability for damages arising out of bodily injury to any person or damage to property caused by or resulting from the sole negligence of the promisee or indemnitee, or the agents or employees of the promisee or indemnitee, is against public policy and is void and unenforceable.

Both Virginia and Maryland courts hold that any indemnity provision in a construction contract which purports to indemnify the indemnitee against liability for damages caused by the indemnitee’s sole negligence is rendered void and unenforceable by law. See Uniwest Constr., Inc. v. Amtech Elevator Servs., Inc., 699 S.E.2d 223, 230 (Va. 2010), opinion withdrawn in part on reh’g, 714 S.E.2d 560 (2011), 699 S.E.2d at 230; Heat & Power Corp. v. Air Prod. & Chemicals, Inc., 578 A.2d 1202, 1206 (Md. 1990). In either Virginia or Maryland, a contractor-indemnitor will not be held liable for the negligence or wrongful acts of a project owner- indemnitee when the project owner- indemnitee is solely responsible.

Maryland and Virginia courts have diverged in their respective conclusions, however, when the contractor-indemnitor and project owner- indemnitee are concurrently liable. In Maryland, where “a particular contract provision or sentence can properly be construed as reflecting two agreements, one providing for indemnity if the [indemnitee] is solely negligent and one providing for indemnity if the [indemnitee] and [indemnitor] are concurrently negligent, only the former agreement is voided by the statute.” Heat & Power, 578 A.2d at 1206. Thus, Maryland courts will only void those indemnity clauses that indemnify the project owner- indemnitee for its sole negligence.

With respect to first party claims, Maryland (like Virginia) has no statutory or common law prohibition on indemnity. In fact Maryland has specifically recognized first party claims are subject to indemnification. Bainbridge St. Elmo Bethesda Apartments, LLC v. White Flint Express Realty Group, 454 Md. 475, 164 A. 3d 978, (Maryland 2017). In that case, the indemnity clause provided the following:

Bainbridge hereby indemnifies, and agrees to defend and hold harmless White Flint … from any and all claims, demands, debts, actions, causes of action, suits, obligations, losses, costs, expenses, fees, and liabilities (including reasonable attorney’s fees, disbursements, and litigation costs) arising from or in connection with Bainbridge’s breach of any terms of this Agreement or injuries to persons or property resulting from the Work, or the activities of Bainbridge or its employees, agents, contractors, or affiliates conducted on or about the White Flint Property, including without limitation, for any rent loss directly attributable to any damage to the White Flint Property caused by the construction of the Project, however Bainbridge shall not be liable for matters resulting from the negligence or intentional misconduct of White Flint, its agents, employees, or contractors. The

Continued on Page 34
indemnification obligations set forth herein shall survive the termination of this Agreement indefinitely. (Emphasis added).

During construction of the apartment tower next door, the neighboring White Flint property owner (Indemnitee) detected damage and notified Bainbridge (the Construction Manager) who in turn notified its general contractor (Turner). Turner stopped the excavation and braced the White Flint’s buildings to prevent further damage.

White Flint declared Bainbridge to be in breach of its contract, and then terminated the contractor and filed suit for declaratory judgment to enforce the indemnification obligations under the contract, which it claimed survived the contract termination. The trial judge granted summary judgment finding that Bainbridge’s obligations survived the termination; and that it materially breached the agreement, it owed continuing duties to White Flint, and must pay White Flint’s attorney’s fees.

Moreover the court held that it was not necessary for the indemnity provision to expressly state that it applied to “first party claims,” in order for the court to find that it contained a first-party attorney’s fee shifting to the contractor. Instead, the court looked at the overall “language and structure” of the article to conclude that the damages, losses and attorney’s fees were not limited to those arising out of third party claims. “The inclusion of the words ‘attorneys fees’ together with a reference to damages ‘arising out of … breach’ constituted an express provision authorizing first-party fee shifting….” (Court of Special Appeals decision).

The Court of Appeals affirmed this decision and further explained that the indemnification article ties payment of attorney’s fees to an action for “breach” of the contract. It confirmed the intent of the parties to cover first-party counsel fees by referring to ‘rent loss.’ A first-party loss arising from a breach of the Agreement.

C. Practice Pointers for Indemnity clauses: Or how to negotiate a balanced indemnification clause

So how can contractors deal with the reality in Maryland that first party indemnification is allowable? First and foremost, contractors should limit the indemnity obligation to personal injury or property damage. Whenever possible, the contractor or subcontractor should strive to limit its indemnity and hold harmless obligations to items for which it can obtain insurance. Generally, insured obligations involve the concepts of personal injury or property damage. The AIA ¶ 3.18.1 clause limits the indemnification obligation to personal injury and property damage (other provisions pertain to other AIA general condition provisions addressing copyright infringements, liens, and hazardous materials). That clause states:

§ 3.18 Indemnification

§ 3.18.1 To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner, Architect, Architect’s consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys’ fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section 3.18.

Broad all-encompassing clauses that require the contractor to indemnify the owner from “all claims arising out of the performance of the contract” or “all claims alleged to have been caused by the acts or omissions of the contractor” are simply too broad and
uninsurable. The contractor should carefully scrutinize indemnification provisions to ensure that the clauses in owner contracts are narrowly drafted to come within the insurable concepts of personal injury and property damage.

Second, contractors should limit the indemnity specifically to third party claims. The indemnity clause should be limited to third-party claims and not include the claims of the parties (the owner's claims) to the contract. Language such as “breach of contract”, “breach of any terms of this agreement” or similar language should be struck. Again, by limiting the indemnity obligation to third-party claims, the indemnity obligation should be insurable.

Third, contractors should narrow the indemnity obligations to its negligence. As set forth in the AIA example above, limiting the indemnity obligation to claims “caused by the negligent acts or omissions of the contractor or others for whom the contractor is responsible” provides further protection to the contractor. Contract claims are thus excluded, and the contractor must be negligent for the indemnity provision to be triggered. The contractor should not be responsible for the payment of claims if those claims do not arise out of the contractor’s negligence.

Finally, it should be recognized that depending upon the jurisdiction, a first party indemnity clause might be a violation of state public policy and in light of the anti-indemnity law of the jurisdiction should not be included in the contract at all. While this is not true in Maryland or Virginia, contractors working in other jurisdictions might have this protection, but with that said, contractors should not merely hope this to be true, but must take proactive measures to limit the indemnity in the contracting phase.

We hope that this is helpful to you as you think about indemnity clauses in negotiation of future contracts.

Tamara McNulty is a highly experienced construction and government contracts lawyer with over twenty years of practice in both as a Partner in Am Law 100 firms and in-house experience as General Counsel and Senior Division Counsel for leading architecture, engineering and construction companies. She recently returned to private practice and is currently a Partner at the law firm of Asmar, Schor & McKenna in Washington, DC, where she specializes in complex construction and government contracts litigation. See her full biography at Tamara-M-McNulty or contact her at TMcNulty@asm-law.com

Caitlin Trevillyan is an Associate and a new addition to the law firm of Asmar, Schor & McKenna where she counsels clients in litigation, as well as other areas of their business, including construction and government contract law matters. See her full biography at Caitlin-Trevillyan

exclude losses resulting from faulty design or faulty workmanship. Because the exclusions will vary from policy to policy, it is important that you review the policy with your insurance agent or your attorney so there are no surprises.

David Applefeld is a partner with the law firm of Shapiro Sher Guinot & Sandler, P.A., and concentrates his practice in the areas of construction law, insurance coverage and commercial litigation. If you have questions about the topic of this article or other legal matters, Mr. Applefeld can be reached at (410) 385-4267 or dba@shapiroscher.com.

"Only do what your heart tells you.”
~ Princess Diana
a family, or serve in the Military, understand that your work experience in your field of work may simply be less than those who haven't taken a leave of absence in your field. Embrace your choice, but don't just expect to come back with ‘equal’ experience and equal pay. Work harder, or smarter, to catch up. Earn it, demonstrate it – be the leader you want to be.

In my 40s, I started noticing that there still were not many female or minority architects, and finally came to realize that women do still need to support each other until full equity is achieved. The more I delved into the issue outside of my ‘privileged’ world (yes, that word), the more pervasive bias seemed to be, especially for minorities.

When asked to mentor a group of inspiring middle school students, The Youthdreamers, I embraced that experience. This group recognized unconscious bias before that became a common term, and they worked to overcome obstacles and biases by creating the first youth-run Youth Center in Baltimore City, reaching into the community to educate those wary of change. Read about these students, or contact me – I love discussing Youthdreamers! (http://youthdreamers.org/pages/aboutus.htm)

I also joined CREW (Commercial Real Estate Women), which does, by the way encourage male members. A 2018 White Paper issued by CREW Network, ‘Achieving Pay Parity in Commercial Real Estate’ delves into facts and findings, expert opinions, case studies and an action guide. (https://crewnetwork.org/about/resources/industry-research/achieving-pay-parity-in-commercial-real-estate). I will share that my salary has been consistent with my male Partners, and does not reflect the current 23% wage gap found by this CREW report and other surveys, but bias seems to be a strong factor in the employment and wage gap.

I was asked recently about the impact that raising a family had on my career. I do not feel it negatively affected my career, but that depends upon your life choices. I chose to take only 7 weeks off with my first child, when the firm I was working for was busy. When my second child was born, during a record high level of unemployment for architects, I chose to take a full 3 months leave. My career was important to me, and I did not want the fact that I'm a mother to limit my work capacity (or the perception of limiting it), so I chose to find reliable Family Day Care, and invested in before and after school care.

A recent CNN story that struck me the most was “Study: White and black children biased toward lighter skin.” Anderson Cooper interviewed young children, American schoolchildren ages 4-5 and 9-10. The results were astounding to me...implicit bias seems to develop at such a young age! (http://www.cnn.com/2010/US/05/13/doll.study/index.html)

What Can We Do Today?

1. Recognize Unconscious Bias

There is a lot of information available. In 2018, the American Institute of Architects (AIA) published, “Where we stand update: Sexual harassment & the architectural profession.” Also in 2018, the AIABaltimore Equity Committee focused on Unconscious Bias, and coordinated educational breakout sessions. Generally, I have found that men are not as concerned with personality/ cultural differences (oops...one of my personal biases showing), but when we advocate for an awareness, it can positively influence your workplace and leadership. It may not be an easy discussion, and...
takes courage, but consider starting a discussion in your company.

2. Training about Unconscious Bias

Consider training, so that employees and managers will be fair and make the most objective decision possible. If we all recognize our own tendencies, we can proactively identify our own tendencies. Unconscious bias can divide people into an us vs. them mentality, and in the workplace, de-escalating these situations should be the primary objective.

3. How can we best support women and minorities, to help bridge the employment and wage gaps in the design and construction industry?

Besides advocacy through organizations, such as CREW and the AIA, we can: Establish advocacy within our firms to promote the hiring of women and minorities; Be a mentor; Be aware of needs and advocate for those needs -- a private breastfeeding area for young mothers, for instance; Promote awareness of gender issues, as well as differences of personalities. Yes, this can certainly get complicated.

4. Test your own Implicit Bias

If you have read this far, you may be willing to test your own Implicit Bias, which can be quite eye-opening. Project Implicit is a non-profit organization and international collaboration between researchers who are interested in implicit social cognition -- thoughts and feelings outside of conscious awareness and control. The goal of the organization is to educate the public about hidden biases.

Log in or register to Project Implicit, to find out your implicit associations about race, gender, age, sexual orientation, and other topics! (https://implicit.harvard.edu/implicit/)

Learn and pay it forward.

A Principal in the award-winning firm of Penza Bailey Architects, Laura Thul Penza has been involved in renovations and additions for private, public and non-profit clients for over 30 years. With a strong sense of community, Laura has been acknowledged for her professional achievements, community service and mentoring.

Just like you wouldn't leave your door unlocked at night, you shouldn't leave your business unprotected — particularly against one of the most common lawsuits a company can encounter. Even if you have top-notch procedures and policies in place, you're still open to liability. And rapidly changing technology and expanding communication channels have made it even more difficult for employers to protect themselves. Social media, email, texting, and even drones are blurring professional lines and making claims more complicated than ever.

Having an EPLI policy in place is the only way to truly protect your company from the financial consequences of a claim. Acquiring a policy is critical for businesses of all sizes. From employees horsing around on the job to age discrimination claims to sexual harassment, EPLI helps to keep your business safe.

With changes in minimum wage and a growing job market, claims are bound to continue rising making it critical to acquire EPLI now. If your business isn't currently protected, we recommend you reach out to your insurance agent and secure an EPLI policy today.

Patti Maluchnik, CIC, CBIA

Patti Maluchnik, CIC, CBIA, Account Executive joined Georgetown Insurance Service in 1993. She earned a Bachelor of Science degree in Business from West Virginia Wesleyan College in 1984 and earned her Certified Insurance Counselor designation in 2003. Her expertise is with accounts in the construction, manufacturing and technology fields. Patti is active in the Rotary Club of Frederick, CREW of Suburban Maryland, Frederick County Chamber of Commerce and Accelerent.

"All you need is love. But a little chocolate now and then doesn't hurt."

~ Charles M. Schulz
separate and distinct business unit. In fact, there may be significant liability, morale-boosting and administrative advantages to letting the newly acquired company continue to account for its own sales and expense transactions using the existing accounting systems and personnel.

However, from a tax perspective and to be compliant with standard practices for financial reporting for banks and bonding companies, it is often necessary to create and maintain a set of consolidated business and accounting records.

Some refiguring of the values of the assets and liabilities held by the target firm on the date of acquisition may be necessary. Once these new values are calculated for the consolidated financial records, any leftover intangible value may be booked to “goodwill.”

The goodwill account is a fixed asset that appears on your consolidated financial statements after a merger or an acquisition. It generally will not be questioned as long as your accounting, finance and tax professionals document the transaction thoroughly, completely and accurately.

Do It Right

Mergers and acquisitions provide exciting opportunities for growth. But these transactions can also be daunting, especially for construction firms who decide to handle legal and financial matters in-house.

If you are considering a merger or acquisition, contact us as soon as you start shopping around. Our seasoned team of CPAs and consultants utilize their deep and diverse skill set to help you structure the best possible transaction from start to finish. We provide transaction advice, aid in negotiations, create exit strategies and manage the process to maximize value and minimize risk during significant transactions.

Donald N. Hoffman, MS, CPA, is the managing partner of The Hoffman Group, LLC, a full-service accounting and consulting firm headquartered in Owings Mills, MD. Mr. Hoffman can be reached at (443) 320-4101 or dhoffman@hoffmancpas.com.

Upcoming Events

February 19th – 2019 Maryland Construction Industry Survey | The Last Day To Participate: Click Here
Host: Maryland Construction Network & Gross, Mendelsohn & Associates
10 Minutes Or Less (Contractors Only Please)

February 21st – “Wisdom & Wine” With Networking
Ruth’s Chris – Pikesville
Host: Consolidated
4:30 – 6:30 p.m. (By Invitation Only)

March 5th – Eastern Shore GC Industry Mixer
Location: The Delmarva Peninsula (TBD)
Host: The Blue Book Network
To Be Determined

March 28th – 5th Annual Direct Connect Networking & Pre Direct Connect Business-Building Seminar
Dutch’s Daughter - Frederick
Host: Tradesmen International
4:00 – 7:30 p.m.

May 2nd – Direct Connect Networking & Pre Direct Connect Business-Building Seminar
Location: TBD
Host: Gross, Mendelsohn & Associates
4:00 – 7:00 p.m.
Insulating concrete forms is formwork that is intended to be assembled on site, filled with rebar and concrete. Unlike conventional systems, the forms stay after the concrete hardens to provide high levels of insulation as well as a built-in means of attaching finishes. There are a variety of insulated form configurations for construction of durable and efficient wall and floor assemblies.

All of these above-grade systems provide a strong, easily assembled disaster resistant alternative to wood and steel frame construction with the added bonus of money saving energy efficiency.

Rock Hard Finishes

On the outside, there are a variety of cement based systems that provide durable, long-lasting, attractive finishes that better resist fire, hail, and wind driven debris.

- Fiber-cement sidings offer the look of conventional siding, but with far greater strength, stability, and water and insect resistance. Aesthetically, they offer sharp, clean lines and are available as traditional planks or as panels for more contemporary designs.

- Portland cement stucco is a fine concrete that can be spread in thin coats over a wall surface. It has the advantage of allowing a wall to breathe to enable the wall assemblies to remain dry.

- Concrete roof tiles are an attractive choice in more and more locations. They offer better impact and wind resistance and can lower cooling costs by providing air circulation, thermal mass, and reflectivity to the top of the building.

- Manufactured stone and concrete masonry veneers both offer attractive long lasting brick or stone like finishes.

All of these systems offer durable finishes that require little maintenance, even when exposed to the elements for decades.

Build Better

Concrete systems help reduce property damage losses in the event of a disaster. Its common sense; harden the container and the contents will be far less susceptible to damage. With less complexity, there are fewer connections, fewer chances the envelope will fail to perform as required. It all adds up to better safety and security for the long term.

Tom Evans
Executive Director
Maryland Ready Mix
Concrete Association

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www.cement.org

Position Wanted

Dedicated and loyal Client Service Professional with over 20 years’ experience in Customer Success, Accounting and Operations and Business Analysis within Big Four, Fortune 500 and Start Up organizations. Managed over $500,000 in software clients and achieved over a 90% renewal annual renewal rate while building long-term relationships with tax and accounting executives. Supported over 100 clients across various industries. Willing to relocate.

Continued from Page 27

companies with gross receipts under $10 million were exempt from using the percentage of completion method for recognizing taxable income on long-term construction contracts. Starting 2018, this exemption amount has been increased to $25 million. Also note that long-term construction contracts that started prior to December 31st, 2017 and all commercial contracts regardless of start date are required to apply the percentage of completion method for alternative minimum tax purposes. Although the alternative minimum tax was repealed for C-Corporations, it was not repealed for pass-through entities that flowed down to the individual levels.

Finally, the Tax Cuts and Jobs Act had little effect on research and development (R&D) credits that may be available to contractors. R&D credits are credits that can have significant tax savings. To find out if your company qualifies for the R&D credit, please contact the construction team at Ryan and Wetmore.

The following table provides additional federal tax information for 2019, as compared with 2018. Many of the dollar amounts are unchanged and some changed only slightly due to inflation.

| Compensation defining highly compensated employee (Section 414(q)(1)(B)) | $125,000 | $120,000 |
| Compensation defining key employee (officer) | $180,000 | $175,000 |
| Driving Deductions | 2019 | 2018 |
| Business mileage, per mile | 58 cents | 54.5 cents |
| Transportation Fringe Benefit Exclusion | 2019 | 2018 |
| Monthly commuter highway vehicle and transit pass, qualified parking | $265 | $260 |
| Estate Tax | 2019 | 2018 |
| Federal estate tax exemption | $11.4 million | $11.18 million |
| Maximum estate tax rate | 40% | 40% |
| Annual Gift Exclusion | 2019 | 2018 |
| Amount you can give each recipient | $15,000 | $15,000 |

| Social Security/Medicare | 2019 | 2018 |
| Social Security Tax Wage Base | $132,900 | $128,400 |
| Medicare Tax Wage Base | No limit | No limit |
| Employee portion of Social Security | 6.20% | 6.20% |
| Employee portion of Medicare | 1.45% | 1.45% |

| Individual Retirement Accounts | 2019 | 2018 |
| Traditional and Roth IRA Individual, up to 100% of earned income | $6,000 | $5,500 |
| Roth and traditional IRA additional annual “catch-up” contributions for account owners age 50 and older | $1,000 | $1,000 |

| Qualified Plan Limits | 2019 | 2018 |
| Defined Contribution Plan limit on additions on Sections 415(c)(1)(A) | $56,000 | $55,000 |
| Defined Benefit Plan limit on benefits (Section 415(b)(1)(A)) | $225,000 | $220,000 |
| Maximum compensation used to determine contributions | $280,000 | $275,000 |
| 401(k), SARSEP, 403(b) Deferrals (Section 402(g)), & 457 deferrals (Section 457(b)(2)) | $19,000 | $18,500 |
| 401(k), 403(b), 457 & SARSEP additional “catch-up” contributions for employees age 50 and older | $6,000 | $6,000 |
| SIMPLE deferrals (Section 408(p)(2)(A)) | $13,000 | $12,500 |
| SIMPLE additional “catch-up” contributions for employees age 50 and older | $3,000 | $3,000 |

Ryan & Wetmore, P.C. is a Washington DC metro area firm with offices in Bethesda, Maryland, Frederick, Maryland, and Tysons’ Corner, Virginia specializing in construction contracting. They are members of the BDO Alliance’s Construction Accounting Network, Construction Financial Management Association, and Rainmaker Companies Real Estate & Construction CPAs. For assistance with maximizing depreciation or other tax questions, please visit us online and contact our construction team leaders, Peter Ryan, CPA, MBA and Jason Dudas, CPA.

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