**Luke’s Notes**

**Krause-Anderson Insurance Webinar:**

**Virtual Risk Panel – Construction Project Impacts**

**April 9, 2020**

**TIPS FOR SUBCONTRACTOR RISK MITIGATION:**

* **Work Collaboratively with Owners/GCs/Subcontractors.** GC’ are being told to not default any subcontractors due to the inability to get a crew. GCs are being encouraged to communicate with the owners and subcontractors to resolve issues. Communication and collaboration between all parties.
* **Give Official Notice of Possible Delays, Even if Delays are Not Imminent.** GCs are being encouraged to give all owners official notice that their projects could be delayed due to COVID, even if the project is not currently delayed. Subcontractors would be wise to provide similar notice to GCs. The current environment is too uncertain to not assume delays may be inevitable.
* **Read Your Contract; Know Your Force Majeure Clause.**
* **Get a Copy of the GCs Contract with the Owner; Know Their Force Majeure Clause.** The responsibilities in the GC’s contract can and will flow down to the subcontractors.
* **Document Everything.** Document all changes to the jobsite that relate to COVID. Provide regular updates to the GC/Owner/Subcontractor. Note when these changes delay/slow work.
* **Expect GCs to Re-Qualify All Subcontractors During and After the Covid Event.** This COVID event is messing with everyone’s balance book. Liquidity is king.
* **Open Conversations with Your Surety Providers.** Like GCs, surety providers are going to be taking a second look at everyone’s books during and after the COVID event. Again, liquidity is king and low debt-loads are preferable. Your 90-day accounts receivable may not be counted toward your liquidity because payment is not guaranteed under the current circumstances. Be ready and engage in those conversations up front.
* **Verify Your Supply Chains.** Check on the status of materials previously specified in contracts. Document all changes made to previously specified materials that are no longer available due to supply chain issues.
* **Check to make sure the GC is being funded.** If the GC isn’t getting paid, that problem will flow down to you. If you can, track whether the GC is being funded. If they are not, know your contracts so you know where you have leverage or outs.
* **Be Prepared for the GC to More Vigorously Verify Equipment and Material Installations.** Things are tightening up and GCs are less likely to pay for installations they have not yet verified. Be prepared for this and have your own documentation.
* **GCs are Looking at Retainage and Advance Payment in Some Cases.** Some GCs are releasing more retainage to preferred subcontractors that may be having cash-flow issues. This could be an option, if there is a good relationship with the GC. In these instances, the GC will likely require a retainage bond or advance payment bond.
* **Plan for COVID Reoccurance.** Everyone is focused on the short-term and moving beyond shelter-in-place. Don’t forget that COVID could come back in the fall or next year. Prepare your contracts, supply chains, and business plans with this likelihood in mind.

**LOCAL CONSTRUCTION & SURETY OUTLOOK:**

* **The existing pipeline of work (60 – 90 days out) remains relatively stable.**
* **There is a steep decline in the number of projects and bidding opportunities after that.**
* **A few areas remain relatively stable:**
  + Public work and
  + Service work
* **A few areas may see increases:**
  + Road work continues and grows in order to take advantage of reduced traffic.
  + Medical-related work will likely grow (hospital expansions and upgrades, certain medical device/manufacturers)
  + School & universities are looking to take advantage of being shut down to extend the summer construction season.
* **Bidding has been very competitive on MNDOT & school work, driving prices down in an environment of high uncertainty.** It is not clear how this will work out.
* **Banks are backed up with CARE Act loan applications.** It will take you longer than usual to get a traditional loan or line of credit.
* **Surety bonds still require signatures.** There is a push in the legislature and in the industry to allow and implement electronic signatures. Watch the legislature.