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Rocky Mountain
Chapter



A LOOK AT HOW A CULTURE OF SAFETY MAKES A DIFFERENCE
ADOLFSON & PETERSON - P. 28

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Letter from the Chairman

Jason Maxwell
General Superintendent



First and foremost I would like to thank all the ABC members, board and staff for the honor of serving as your 2017 Chair. I would like to touch on our strategic goals for the chapter and how we are going to get there, the leadership team asked if it would be possible to expand beyond committees for input as we typically do. While this holds all of us accountable, it also allows everyone to celebrate our successes while strengthening our membership.

In terms of highlighting the top priorities for this year, they include preparing the workforce development pipeline, building our political influence, growing membership, leadership and education program offerings, and diversifying our events & networking opportunities.

The Rocky Mountain Chapter members have always shown a commitment to safety, and that won't change this year either. We will continue to be in the top three chapters nationally for member STEP participation and will continue to offer and develop safety training. A big priority that we are focused on this year is the importance of growing our membership and building relationships with other contracting companies within our industry.

I would like to challenge all of our member companies to focus on recruiting one new member this year to help make our association the strongest construction advocate in the state of Colorado. So I ask you all to make it a goal for yourself to reach out to those prospective contractors, whether they are just starting their own business or have been in the industry for years. Become a spokesperson for ABC; invite them to a class, an event, or a conference and let's keep building those relationships together.

Sincerely,

Jason Maxwell
2017 ABC Chairman of the Board

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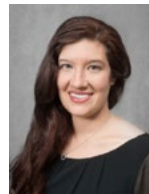
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Sydney is the newest member of the ABC Chapter Staff. She graduated from the University of Denver in June 2016 and brought her communications and marketing experience to work at ABC.

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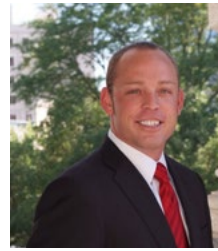
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Meltdown in Colorado Legislature Over Centerpiece Issues?

Landon Gates
Principle
Capitol Focus, LLC



Coloradopolitics.com's Peter Marcus may have said it best in his April 21 Insights article: "Meltdown in Colorado legislature over centerpiece issues." Or maybe the headline should read, "Meltdown in Colorado legislature over centerpiece issues, sliver of hope left for others."

In January, we were led to the Capitol on opening day of the first regular session of the seventy-first General Assembly for the State of Colorado. We were imparted with opening day speeches promising bi-partisan leadership and eventual agreement on crucial issues facing our state – solutions to issues that have eluded General Assemblies of the past... passing significant construction defects reform, finding new revenue to fund transportation projects, converting the hospital provider fee into an enterprise, and investing in broadband infrastructure, along with balancing a budget that requires hundreds of millions of dollars in cuts.

Fast forward more than one hundred days and we're down to less than two weeks left in the legislative session. The bi-partisan tone struck at the beginning of session is now gone. All that seems to remain is the finger-pointing.

At the end of March and beginning of April, the House of Representatives and Senate worked to balance a \$26.8 billion budget. Weeks later, the budget has yet to be given final approval as lawmakers mull over a proposal to convert the state's Hospital Provider Fee into an enterprise fund.

Meanwhile, Republicans on the Senate Finance Committee defeated a bi-partisan measure that would have asked voters in November to increase taxes to generate new revenue to fix our state's crumbling and congested roads.

To the outsider, two weeks to negotiate big-ticket items like transportation funding and a \$26.8 billion

budget along with converting the Hospital Provider Fee and funding K-12 education may not seem like very much time at all. But to those in the trenches, working daily and sometimes hourly to find common ground, two weeks seems like an eternity.

On a positive note, Republicans and Democrats are agreeing that they may have finally solved one of their big-ticket items. Last week, a gaggle of bi-partisan lawmakers (largely from the House) reached a deal they say will thaw Colorado's frozen condominium market and lead to an era of affordability for first-time homebuyers.

House Bill 1279, sponsored by House Assistant Minority Leader Alec Garnett (D-Denver) and Representative Lori Saine (R-Firestone) and Senate Minority Leader Lucia Guzman (D-Denver) and Jack Tate (R-Centennial) would require a majority of homeowners in an association to approve a lawsuit against a builder and require disclosure to homeowners of a proposed lawsuit before a lawsuit could proceed. While the homeowners of the association consider such action, the clock would stop on the statute of limitations and the statute of repose for up to 90 days.

No one believes HB 1279 is the silver bullet we all hoped for to get shovels in the ground on new condo projects... the homeowners' associations will still have direct access to the courts. And the opponents to reform continue to say that if builders would build a quality product to begin with, we wouldn't be facing the problems we are. And the homebuilding community would much prefer a process for mediation and a right to repair.

Everyone, however, is hopeful that HB 1279 is a step in the right direction and will hopefully be enough for builders to spur condo development.

A number of other bills have been introduced this session, each aiming to address a particular issue that

has led to the almost complete stop to the construction of new condo units.

Senate Bill 45, which intends to apportion defense costs for builders, was introduced early in the legislative session and had the support of the President of the Senate and the Speaker of the House. The bill, more problematic than helpful, quickly drew opposition from the homebuilding and construction community. This bill has stalled as is awaiting consideration by the Senate Appropriations Committee. Its fate is uncertain.

Senate Bill 155 by Senator Jack Tate (R-Centennial) seeks to define "construction defect." This bill has been delayed multiple times and will likely serve as a "placeholder" for the remainder of the legislative session. It is, however, expected to end up facing defeat, pending the expected eventual passage of HB 1279.

Senate Bill 157, a Democrat-led measure introduced by Senator Angela Williams (D-Denver) and Representative Jovan Melton (D-Aurora) hoped to implement certain requirements that an HOA Board would have to follow before bringing suit against a developer. This bill was quickly defeated at its first and only hearing by the Senate Committee on Business, Labor and Technology.

Senate Bill 156, authored and supported by the Homeownership Opportunity Alliance, passed the Republican-controlled Senate with bipartisan support but stalled out in the House when it got assigned to the "kill" committee. SB 156 was finally killed after the sponsors of House Bill 1279 announced they had reached a compromise with stakeholders on their measure.

So, as the waning days of the legislative session come and go, we expect to see the Senate give approval to HB 1279 and the Governor (barring any major change of events) is expected to sign it into law.

We shouldn't feel alone in our seemingly fruitless efforts to once-and-for-all solve construction defects.

The proponents of the bi-partisan measure to ask voters for a sales tax increase to fund transportation infrastructure improvements worked tirelessly to craft a bill that could win approval by the legislature and the voters in November. The carefully crafted legislation was championed by Speaker of the House Crisanta Duran (D-Denver) and Senate President Kevin Grantham (R-Canon City). Dianne Mitsch-Bush (D-Steamboat Springs), Chair of the House Transportation Committee, and Randy Baumgardner (R-Hot Sulphur Springs) were also sponsors of the measure.

The measure gained steam when four Republicans joined the Democrats on the bill's final vote in the *Continued on next page*

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House. The Senate transportation committee then amended the bill to dedicate one hundred million dollars of existing funds to help pay for the bonding authorized in the bill. In exchange, the proposed sales tax increase was reduced from .62 percent to .5 percent. Still, that wasn't enough to get three votes to pass the measure out of the Senate Finance Committee.

Now the only measure seeking additional funding for transportation is Senate Bill 267, sponsored by Senator Jerry Sonnenberg (R-Sterling). SB 267 would convert the Hospital Provider Fee to an enterprise fund, sparing more than five hundred million in lost revenue for Colorado hospitals. The measure would allow the state to issue certificates of participation in order to fund transportation, capitol construction and other controlled maintenance projects. In addition, it would require FY18-19 state department budget requests to be two percent lower than FY17-18. The sticking point with the proposal is whether or not there is a change in the state's "TABOR cap" as a result of the reclassification of the Hospital Provider Fee.

Republicans have long argued that reclassification of the Hospital Provider Fee would need to be associated with a lowering of the TABOR cap in the same amount as what the fee generates. Democrats say that any

reduction in the TABOR cap would harm future spending on state programs, including K-12 education.

Needless to say, there are a lot of conversations yet to be had. The devil is in the details. And with stress levels running high, the outcome on SB 267 is anyone's guess.

So as midnight on May 10th rapidly approaches, work continues on at least a couple of the big-ticket items that have been on the agenda from day one.

Landon Gates is one of the Principles of Capitol Focus, LLC, part of ABC Rocky Mountain's Lobbying team which also includes William+Simpson. The article was submitted as the Colorado General Assemble nears the end of the 120 day session. A full report on legislation that ABC has been tracking and actively lobbying on behalf of our membership will be published in the next issue of the Merit Builder.



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In New Contract Documents, AIA Bolsters Insurance Requirements: An In-Depth Look

Patrick O'Connor, Jr.
Partner

FAEGRE BAKER
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Most contract documents published by the American Institute of Architects (AIA) are on a ten-year drafting cycle. The principal owner-architect agreements, owner-contractor agreements, as well as the general conditions document, were last issued in 2007. Their replacements are due to be released at the AIA's National Conference in Orlando, April 27-29, 2017. One of the more significant changes from the 2007 documents concerns how the documents treat the subject of insurance. Designing and constructing projects is a risky business. Mistakes can and do happen. One of the principal methods for addressing design and construction risk is via transference for a premium to third-party insurers. Requiring construction participants to procure one or more types of insurance is an old concept. Mandating insurance in one form or another has been a staple of AIA contracts from the very beginning. The 2017 documents, however, mark a significant departure from the past. With the introduction of an insurance exhibit, the AIA has raised the profile that insurance is likely to play in the contract formation process. The new insurance exhibit prompts parties to explore insurance as a risk-management device in greater depth than they might otherwise have undertaken.

Information Expressly Required to be Provided by the Parties in Completing the Exhibit

The current AIA Owner and Contractor Agreement forms call for the parties to identify the limits of liability for the liability insurance required under Article 11 of the General Conditions Document.² The General Conditions Document requires the Contractor to secure

workers' compensation insurance, employer's liability insurance, automobile liability insurance, and commercial general liability insurance. The limits for workers' compensation are mandated by law. The Owner's property insurance is required to be provided "in the amount of the initial Contract Sum, plus value of subsequent Contract Modifications and cost of materials supplied or installed by others, comprising total value for the entire Project at the site on a replacement cost basis."³ Therefore, the parties must only make decisions regarding the coverage limits for three types of insurance: employer's liability; automobile liability; and commercial general liability. As a general rule, parties specify limits for each occurrence or accident (a per-occurrence limit), as well as a total limit for all occurrences (an aggregate limit).⁴

The 2017 Insurance Exhibit provides a much richer menu of potential coverages, durations, and limits. While the Exhibit prompts the parties to consider numerous options for insuring the project, they need only address limits for: (1) commercial general liability (§ A.3.2.2); (2) automobile liability (§ A.3.2.3); (3) employer's liability (§ A.3.2.6), where the Contractor's work does not involve (1) the transport, dissemination, use or release of pollutants; (2) the furnishing of professional services; or (3) maritime/aviation liability risks. If the Work implicates these risks, the parties are required to identify the limits for the applicable insurance addressing the particular risks at issue.⁵

The parties are not required to insert any information into the Exhibit with respect to insurance coverage other than for specifying the liability limits for commercial general liability insurance, automobile insurance, employer's liability insurance, and where the work

involves such risks, contractor's professional liability insurance, pollution liability insurance and insurance for maritime liability/aircraft liability risks. The parties need complete no other "check box" or "fill point" contained in the Exhibit if they wish.⁶ In this regard, the completion of the Insurance Exhibit should not be materially more difficult than completing the insurance information required by the current AIA Owner and Contractor Agreement forms.

This is not to suggest, however, that the parties need only attend to § A.3.2 (Contractor's Required Insurance) in order to properly address the project's insurance requirements. While this is the only section where the parties must provide information with respect to insuring the project, there are other provisions which may well require the parties to secure specific insurance depending upon the nature of the work. For example, § A.2.3.3 requires the Owner to purchase and maintain insurance on an existing structure where the work involves remodeling that structure or constructing an addition to the existing structure. The parties are not required to fill out any information with respect to this insurance, but it is an obligation placed on the Owner in the event the work involves an existing structure. Moreover, the exhibit and Article 11 of A201™- 2017 provide much detail regarding required and optional coverages and related requirements and prohibited exclusions. For these reasons, even though the parties only need to fill out the liability limits for the insurance called for under § A.3.2, the parties are well-advised to carefully review the entire Exhibit, as well as Article 11, and to have the Exhibit reviewed by their insurance broker or policy provider.

Tailoring Coverage by Exercising Options and Specifying Limits and Durations

The Insurance Exhibit permits the parties to make dozens of decisions with respect to insuring the project. They are not required to make any decisions except for the liability limits of the Required Contractor's Insurance, but the Exhibit serves as a guide for exploring additional coverages that may be appropriate in the particular case. Other provisions guide the parties with respect to providing greater specificity concerning required property coverage.

A. Required Property Insurance

The Owner is required to secure property insurance covering the Contractor's work unless the parties select the option (§ A.3.3.2.1) of having the Contractor provide this insurance. Section A.2.3.1 describes in general terms the builder's risk insurance required for the project. The Owner is required to purchase builder's risk "all-risks" insurance on a completed value or equivalent policy form. The limits of this insurance shall be sufficient to cover the total value of the entire project on

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a replacement cost basis. At a minimum, this should be no less than the amount of the initial Contract Sum plus the value of any subsequent modifications, materials supplied or installed by others, and furnishings, fixtures, and materials located at the project site. If the project involves construction performed by the Owner's separate contractors, this work also should be covered by the Owner's property insurance.

While "all-risks" property or builder's risk insurance seldom covers all risks, the Exhibit prohibits certain exclusions (i.e., fire, explosion, theft, vandalism, malicious mischief, collapse, earthquake, flood, or windstorm). The property insurance shall also provide coverage for ensuing loss or resulting damage from error, omission or deficiency in construction methods, design, specifications, workmanship, or materials.⁷ Where it is not possible or desirable to purchase the required property coverage for specific perils at limits of the total project value, the Exhibit permits the parties to submit certain coverages. Earthquake and collapse are coverages that on occasion are subject to sublimits.

The Exhibit also requires the builder's risk policy to provide specific related coverages. For example, false work and other temporary structures are to be covered.⁸ Debris removal and required demolition also are coverages required to be provided, as well as cover-

age for damage to building systems from testing and startup. The required property insurance also shall provide reimbursement for the services and expenses of the Architect and Contractor incurred as a result of the loss, including work spent in assisting in claim preparation. Some of these coverages, such as debris removal, frequently are subject to sublimits. As a consequence, the Exhibit provides an opportunity for the parties to specify applicable sublimits for these coverages.

The Exhibit also identifies a number of optional extended property coverage extensions that the parties may wish to secure in connection with the project. These include:

- Loss of use, business interruption, delay in completion insurance.
- Ordinance or law insurance.
- Expedited cost insurance.
- Extra expense insurance.
- Civil authority insurance.
- Ingress/Egress insurance.
- Soft costs insurance.⁹

These optional property coverage extensions include several common time-element coverages. In many cases, the Owner is well advised to secure business

interruption insurance, as it bears the risk of such loss under § 11.4 of the General Conditions Document.¹⁰ Because most builder's risk or permanent property policies are written on a manuscript basis, rather than a standard industry form, it is not unusual for one insurer's "standard" property policy to provide types and scope of coverage different from another insurer's property policy. For example, one insurer's property policy may include extra expense insurance and soft costs insurance as part of the basic coverage package, whereas another company's policy will provide these by way of specific coverage extensions. The Exhibit permits the parties to reach a more detailed understanding regarding the nature and extent of the project's property coverage.

The Exhibit also prompts the parties to discuss whether first-party cyber security insurance is a coverage that is appropriate under the circumstances.¹¹ There also is an opportunity for the parties to identify additional insurance coverages to be provided by the Owner.¹² There are a number of additional coverages an Owner may wish to secure for the project. For example, under the 2007 edition of the A201 General Conditions Document, the Owner is required to purchase "Boiler and Machinery Insurance required by the Contract Documents or by law."¹³ This coverage is now more commonly known as "Equipment Breakdown Insurance." This insurance protects electrical systems, air conditioning and refrigeration equipment, mechanical equipment, and modern office equipment, in addition to heating systems such as boilers. This insurance is provided in two basic ways: (1) on a monoline policy basis, separate from a property insurance policy; and (2) within a property insurance policy either embedded into the policy form or added by endorsement to the overall policy. Because the required builder's risk insurance must cover the entire project on a replacement cost basis, this coverage should be part of the builder's risk policy. Therefore, it was decided that a separate provision requiring such insurance was unnecessary. In the event that the builder's risk policy does not provide adequate protection for testing and startup of building systems, or the parties believe additional coverage for equipment breakdown is appropriate, they should specify such coverage under § A.2.5.2.

B. Duration of the Contractor's Required Insurance

Section A.3.2.1 requires the Contractor to purchase and maintain the required insurance until the expiration of the period for correction of Work. Under § 12.2.2 of the General Conditions, the Contractor is obligated to correct Work not found to be in accordance with the Contract Documents within one year after the date of substantial completion of the Work. This one-year correction period is extended with respect to portions of the Work first performed after substantial completion, although it is not extended for corrective work performed during the correction period.¹⁴ If the parties

decide that the Contractor shall maintain insurance for a duration other than the expiration of the period for correction of Work, they may state that duration in the space provided at the end of § A.3.2.1.

The Contractor's obligation to provide insurance for a specified duration of time should not be confused with the common, but problematic, requirement that the Contractor secure completed operations coverage for a specified term of years. Contractors do not purchase monoline "completed operations" coverage for multi-year periods. Occurrence-based CGL coverage, the only type permitted under the AIA documents, is not written in such a way that one can secure the equivalent of "tail coverage" (a common feature of claims-made professional liability policies).¹⁵ "Completed operations" coverage is simply a feature of the "products-completed operations hazard" in the standard ISO CGL policy form, with the consequence that separate exclusions apply to property damage that arises after the insured's work is complete or abandoned. Therefore, requiring a contractor to provide "completed operations" insurance for a specified period of years boils down to nothing more than a commitment to, in the future, purchase practice policies for the specified number of years.¹⁶ While a Contractor may well agree to purchase insurance in subsequent years (and name the Owner as an additional insured under those policies), this is usually not what the Owner has in mind by such contract language as it requires more contract administration than many Owners are able to provide.

C. Contractor's Optional Insurance

Section A.3.3 of the Insurance Exhibit identifies a number of optional insurance covers that may be appropriate for the Contractor to secure for a given project. These include railroad protective liability insurance, asbestos abatement liability insurance, and property insurance covering loss to the Contractor's property as well as property located in off-site storage or in transit to the construction site.¹⁷ There is also an opportunity for the parties to agree that the Contractor shall purchase and maintain the requisite builder's risk insurance. It is likely that the parties will set forth a number of terms and conditions that will apply in the event the Contractor secures the builder's risk insurance and the Exhibit allows for such customization. The Exhibit also expressly requires that the Contractor comply with all obligations placed upon the Owner were it to purchase the required property coverage, although the Owner is still responsible for adjusting and settling any insured loss.¹⁸ The Exhibit also permits the parties to elect to require the Contractor to procure other specified types of insurance, such as cyber liability or other insurance appropriate for the project.¹⁹ Where the parties elect to have the Contractor provide optional liability insurance, the form requires the parties to set forth the liability limits for such insurance.

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Insurance Requirements Contained in the 2017 General Conditions Document

The Documents Committee determined that it was appropriate to maintain in the General Conditions Document an Article 11 devoted to insurance and bonds. Although, upon initial reflection, it may seem odd to split the insurance requirements between the General Conditions Document and the Insurance Exhibit, this was done as a precaution in the event the parties failed to make the Insurance Exhibit part of their agreement. In such event, the General Conditions Document would govern the parties' insurance obligations and provide the familiar waivers of subrogation to the extent the Owner has applicable property insurance even though none is mandated. Article 11 of the 2017 edition also maintains § 11.3.3 "Loss of Use Insurance" from the 2007 General Conditions Document. This provision provides the Owner the option to purchase insurance to protect the Owner against loss of use of its property due to fire or other causes of loss. This provision also contains a waiver by the Owner against all rights of action against the Contractor and Architect for loss of use of the Owner's property, due to fire or other hazards however caused.²⁰

Additionally, Article 11 of the General Conditions Document sets forth the process for the adjustment and settlement of insured loss.²¹ The consequences of the Contractor's failure to give notice of cancellation of required insurance, as well as the Owner's failure to purchase required property insurance, also are set forth in Article 11.²² The Owner's obligations arising from the cancellation of the insurance it is obligated to provide is also addressed in Article 11.²³

Summary of Major Changes

In addition to the significant contract formation change brought about by the introduction of an additional document (i.e., the Insurance and Bonds Exhibit), the 2017 General Conditions Document and Insurance Exhibit contain a number of material changes from the 2007 documents. These include:

- Setting forth specific procedures and process for giving notice of cancellation of insurance.²⁴
- Setting forth a detailed process for settlement of insured loss.²⁵
- Contractor's required insurance shall be maintained through the correction of work period rather than until the date of final payment²⁶
- Specifying the Contractor's obligation to provide additional insured coverage to Owner, Architect and Architect's consultants with more specificity than set forth in the 2007 General Conditions Document.²⁷
- Requiring the Contractor to secure professional liability insurance where it is required to furnish pro-

fessional services as part of the Work.²⁸

- Requiring the Contractor to procure pollution liability insurance where the Work involves the transport, dissemination, use or release of pollutants.²⁹
- Requiring the Contractor to purchase insurance for maritime liability risks and manned or unmanned aircraft risks where the Work requires such activities.³⁰
- Expressly anticipating situations where the parties decide that the Contractor shall purchase and maintain the required property coverages and setting forth the process for accomplishing this in the Contract Documents.³¹
- Expressly prohibiting certain practices or policy language eliminating or restricting commercial general liability insurance, including:
 - Prohibiting "insured v. insured" exclusions and the like.
 - Prohibiting the deletion of the subcontractor exception to the work-performed exclusion.
 - Disallowing broadly drafted employees' or workers' compensation exclusions.
 - Prohibiting exclusions eliminating insurance for indemnity claims arising out of injuries to the Contractor's employees.
 - Prohibiting prior work endorsements.
 - Prohibiting prior injury endorsements.
 - Prohibiting residential or habitational exclusions where the Work involves such projects.
 - Prohibiting roofing exclusions where the Work involves such roofing Work.
 - Prohibiting exclusions related to exterior insulation finishing systems (EIFS) or similar exterior coatings where the Work involves such coatings or surfaces.
 - Prohibiting exclusions restricting or eliminating coverage for damages due to earth subsidence or movement.
 - Prohibiting exclusions or restrictions relating to explosion, collapse, and underground hazards where the Work involves such hazards.³²
- Contractor is required to disclose to the Owner any deductible or self-insured retentions applicable to any insurance required to be provided by the Contractor.³³
- Contractor must purchase insurance covering liability arising from the Jones Act and the Longshore & Harbor Workers' Compensation Act where the Work involves hazards arising from activities on or near navigable waterways, including vessels and docks.³⁴
- Where the Contractor chooses to secure the required limits of liability through a combination of primary and excess insurance, the excess policy shall

not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers (i.e., the excess policy must be written on a "functional exhaustion" basis).³⁵

- The parties are prompted to set forth sublimits pertaining to specific causes of loss for which the builder's risk policy responds.³⁶
- The parties are encouraged to set forth sublimits for specific required coverages where appropriate.³⁷
- The required builder's risk insurance must provide coverage for ensuing loss or resulting damage from error, omission, or deficiency in construction methods, design, specifications, workmanship, or materials (i.e., the policy must contain the resulting loss or ensuing loss exception to the design and workmanship exclusion).³⁸
- Where the Work involves remodeling an existing structure or constructing an addition to an existing structure, the Owner must purchase and maintain until expiration of the period for correction of the Work all-risks property insurance protecting the existing structure against the same causes of loss to which the builder's risk insurance must respond.³⁹
- The Owner's loss-of-use damages waiver extends to the Architect as well as the Owner.⁴⁰
- The parties are prompted to explore a number of optional property insurance covers including loss of use/business interruption/delay in completion insurance; ordinance or law insurance; expedited costs insurance; extra expense insurance; civil authority insurance; ingress/egress insurance; and soft costs insurance.⁴¹
- The parties are prompted to consider other optional insurance for the Owner to purchase and maintain,

including cyber security insurance and such other insurance that the parties deem appropriate.⁴²

- The Contractor shall provide certificates of insurance to the Owner "upon the Owner's written request" (in addition to providing certificates prior to commencement of the Work and upon renewal or replacement of required insurance).⁴³
- The requirement that the Contractor's insurance may not be cancelled or allowed to expire until at least thirty days' prior written notice has been given to the Owner has been eliminated. The obligation to provide notice is placed upon the Contractor rather than insurer.⁴⁴
- The certificates of insurance required to be provided to the Owner by the Contractor shall expressly identify the Owner as an additional insured on the Contractor's commercial general liability policy and excess or umbrella liability policy or policies.⁴⁵

Conclusion


The AIA's Insurance Exhibit is a significant development in the evolution of its Contract Documents. The Exhibit is an acknowledgement that insurance plays a pivotal role in managing design and construction risks. A separate Exhibit allows for a more rapid response to significant changes in the construction insurance environment. The Exhibit also serves as a vehicle for parties to more fully explore the options available to them to manage project risk through insurance.

View references in online article at www.faegrebd.com. Faegre Baker Daniels LLP offers a full complement of legal services to clients ranging from emerging enterprises to multinational companies. They can be contacted by visiting their website.

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Questions about membership?

Contact Brett Denison
Director of Member Services
bdenison@abcrmc.org
303.832.5812

ABC Events

ABC Chapter Awards and Board of Directors Installation

Associated Builders and Contractors Rocky Mountain Chapter held our annual Chapter Awards dinner and Board of Directors installation on Thursday, January 19, at Fogo de Chão Brazilian Steakhouse. New this year, the event featured a roundtable progressive dinner with ABC's Board of Directors.

The Chapter Awards were presented to leaders within the commercial construction industry who have shown outstanding commitment and dedication to the chapter, industry, and the merit shop philosophy through their participation and involvement.

The following companies and individuals were honored with awards:

- Outstanding Service by a New Member - Merit Electric
- Associate of the Year - EKS&H LLLP
- Supplier of the Year - Bobcat of the Rockies
- Subcontractor of the Year - RK
- General Contractor of the Year - Milender White
- Special Service Award - Trip DeMuth, Faegre Baker Daniels
- President's Award - Government Affairs Committee
- Grassroots Champion - Shane Fobes of Milender White
- Merit Shop Defender - Milender White
- Young Professional of the Year - Liz Castro, EKS&H LLLP
- ABCer of the Year - Marissa Bolton, Bobcat of the Rockies

Prior to the awards program was the installation of the 2017 Board of Directors. The individuals who serve on the ABC board of directors volunteer a significant amount of time – and resources – to the Chapter. Their leadership and vision allows the Chapter to grow and succeed as the voice of commercial construction.

More event information and pictures available at www.abcrmc.org or on our Facebook page



2017 Board of Directors at Chapter Awards



Networking at Meet the Generals

Meet the Generals

This event allowed our members to meet one-on-one with some of ABC's top general contractor members. After a designated amount of time to meet, the attendees were instructed to move to another table to meet with another general contractor.

It functioned similarly to a speed dating situation. It was designed to allow more face time among our members who might not normally interact with each other and to help them learn about any prequalification requirements that the general contractors might have for future projects.

Thank you to our generous sponsors:

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Members at NoCo Social

Northern Colorado Social

Our 2017 Northern Colorado Social Networking event, held on March 2, 2017, was a great opportunity for many of our members and guests to mingle and have a good time! Over 90 people gathered at the Ptarmigan Golf Course in Fort Collins to enjoy some drinks, beautiful views, and a chance to get to know other ABC members.

Economic Forecast with Anirban Basu

Over 300 members and guests of the Rocky Mountain Chapter of Associated Builders and Contractors attended the 2017 Economic Forecast at the Westin Denver Downtown on Tuesday, April 18, 2017.

Breakfast was served in the Westin's Confluence Ballroom prior to the presentation, in which Anirban Basu, ABC's Chief Economist, spoke about his predictions regarding the economic state of the construction industry for the upcoming year. Jason Maxwell, White Construction Group, ABC Chairman of the Board; Brett Denison, ABC Director of Member Services; and Dennis Walker, United Rentals, ABC member, introduced the event and welcomed Anirban Basu to the stage.



Anirban Basu speaking at Economic Forecast

Anirban stated that despite weak global economic circumstances, the United States construction economy will remain stable through the remainder of 2017. Tax cuts, or anticipated tax cuts, should aid our national economy for the near future, though there is a potential for long term negative impacts. Unpredictable upcoming administrative changes will likely lead to challenges following this year.

The event was sponsored by the following companies:

Presenting Sponsor: United Rentals
Premier Sponsors: Citywide Banks, Encore Electric, Milender White, and RK
Major Sponsors: EKS&H and Jones Hartz Building Supply
Supporting Sponsors: Hensel Phelps, Matsuo Engineering, LLC, and Mortenson Construction
Industry Co-Hosts: Independent Electrical Contractors; Rocky Mountain (IECRM), The Risk Management Association (RMA), and Rocky Mountain Masonry Institute (RMMI)



Upcoming Events



May 18
Safety & Education Awards
 History Colorado

Join ABC in celebrating our members' safety and education accomplishments



June 9
BBQ at the Ballpark
 Security Service Field

Bring your family to join ABC in cheering on the SkySox in Colorado Springs



June 13
Campbell Amble Golf Tournament
 Fox Hollow Golf Course

Join in on the competition for a chance to win at ABC's annual golf tournament



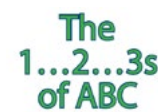
June 6
EIC Submittal Seminar
 ABC Office

Get help with putting together a winning Excellence in Construction project submittal



July 20
Cajun Boil
 FCI Constructors

Don't miss this summer family event with food, games, and fun



July 25
ABC Essentials
 Colorado Springs

Learn more about how to get the most out of your ABC membership

Sponsorship Spots for Events are Filling Up

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Important Dates:

June 6	EIC Submittal Seminar
Aug 18	EIC Submittals Due
Oct 15	Project Must be Completed
Oct 20	EIC Awards Dinner

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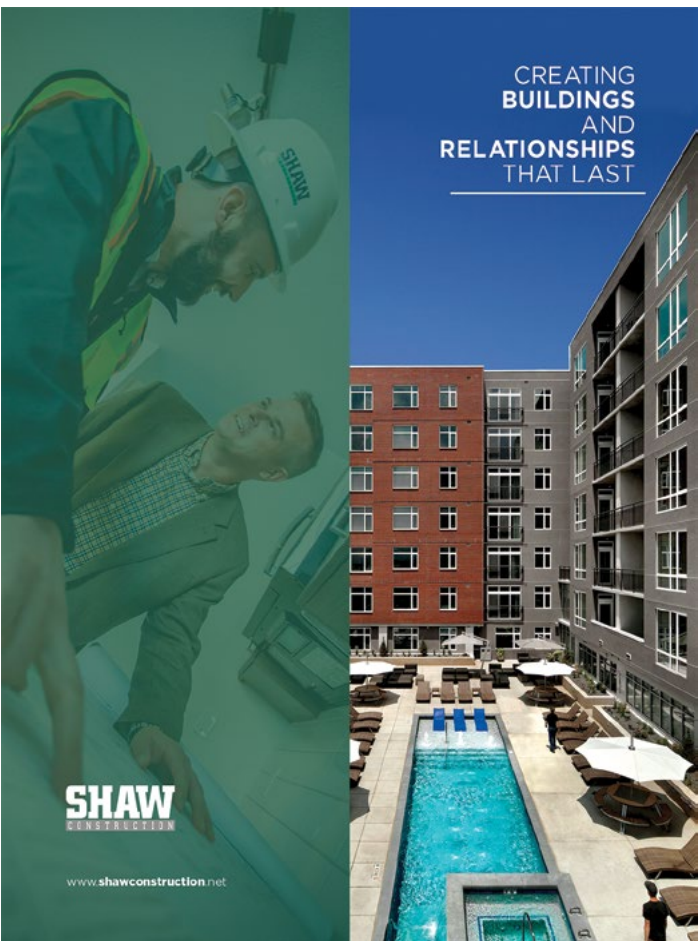
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CSU Student Chapter Elects New Officers



On April 20, 2017 the CSU Student Chapter held our annual ABC Officer Elections in the Pre-Con building and we would like to congratulate the students below on becoming elected as the new 2017-2018 officers for the ABC Student Chapter at CSU!

The ABC student chapter has been growing every year these past several semesters and we are very excited to have this new blood coming in and taking over the reigns for next year; we hope you all can keep the momentum of the organization moving in the proper direction and make ABC even better than before!

*Dan Simmons, Construction Management,
Colorado State University, Graduation May 2017
ABC Student Chapter, President*



At March 2nd NoCo Social, Left to right: Darcy Wojciechowski, Abraham Merinar, Jack Jambor, Sean Furst, Jerry Slota, Dan Proud (FCI Employee)

Congrats to the new officers!

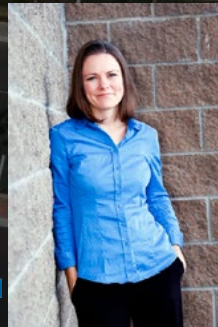
- President - Jerry Slota**
- Vice President - Jack Jambor**
- Secretary - Aaron Peterson**
- Treasurer - Chris Martin**



2017-2018 CSU Student Chapter Officers

A Look at How a Culture of Safety Makes a Difference

Megan Bond
Senior Marketing
Coordinator



normal building has many requirements around constructing elevators – this project required a mock elevator stuck between floors so personnel can do elevator rappel training.

Beyond standard construction safety methods, numerous injury preventative measures were put into practice tailored to the site:

- The pump house is 20-ft deep, so the team had to provide life-jackets and train on water safety as if the work was being completed by a lake even though the site was in a dry-climate location.
- The team implemented safe prevention of wildlife dangers, as the fields of the site had numerous antelope and snakes.
- The team performed a mock crisis scenario of simulating a scaffold fall with the subcontractors so everyone could go through the motions of what to do if an emergency hits.
- During Safety Week, a national safety initiative, the project site had a week of training focused on safety. Boards for all workers were provided to write why they work safe and sign their name. The Why I Work Safe campaign made safe work practices personally meaningful for every worker.

Every meeting started with a safety moment. Daily huddles, monthly safety meetings and internal safety

audits were routine occurrences to the site. The ongoing message of safety integrated injury prevention into daily routines.

Some things come unexpectedly without much warning and require calm leadership to keep everyone safe. In June, a tornado touched down less than 2 miles from the site. The project team gathered everyone into the bunker that was left onsite from the previous owners until the tornado moved safely away. It is the leadership skills of the team, coupled with ongoing safety training that provides the foundation of the calm approach to addressing unexpected emergencies.

The project completed without any accidents or injuries, including no lost time for 500+ days. The completed joint-training campus now allows Aurora's police and fire to be more effective as a team when responding to emergency scenes.

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When project-specific safety is coupled with company-wide safety programs that connect safe practices to individuals rather than policy, a higher-level of safety is created. This powerful approach can make all the difference when the unexpected occurs on a complex project and challenges are faced.

When constructing the City of Aurora Public Safety Training Center (CAPSTC), a project with safety in its name, bringing the highest level of safety standards and training was paramount. The client goals helped created a team mentality focused on safety, which was supported by General Contractor Adolfson & Peterson Construction's intensive safety management and Incident and Injury Free (IIF) program. IIF is a culture of personal leadership where individual and collective responsibility creates an environment where incidents and injuries are unacceptable. Supporting IIF creates a culture where employees and subcontractors have a high level of care and concern for their fellow workers and helps everyone go home safely at the end of the day to their family and friends.

Designed for police and fire joint training, the CAPSTC design-build project consisted of seven different projects to be designed, built and integrated together in

a short timeframe. This unique project's scope required 23 acres of extensive site work, 2 miles of a force main sanitary sewer, a 43,366-sf education and training building, a 7,000-sf, 5-story drill tower, a 3,500-sf class-A burn building, 4.2 acres of a concrete Emergency Vehicle Operations Course and a sustainable water circulation system with an on-site pump house to reuse water after fire training.

The history of the site created challenges, as it was formerly an Army Corps of Engineers' bomb testing area. Approximately 40,000 cubic yards of soil had to be safely removed, which required testing to be clean of ammunitions and military remnants. With preparing the site, the project team removed existing ammunition cases, four conexes with unknown materials and a 2,500-lb inert bomb. The team found a 4-ft thick concrete detonation bunker that could not be removed and thus was incorporated into the project to be used for storage.

The burn building and drill tower proved to be challenging because of the untraditional nature. Sloped floors, instead of flat, were required for proper water drainage; however, doors still needed to open and close properly. Rooms were expected to reach over 2,000°F, so high-temperature lining materials were chosen. A



Photo by James Spahn



Photo by James Spahn



Photo by Kurt Brown

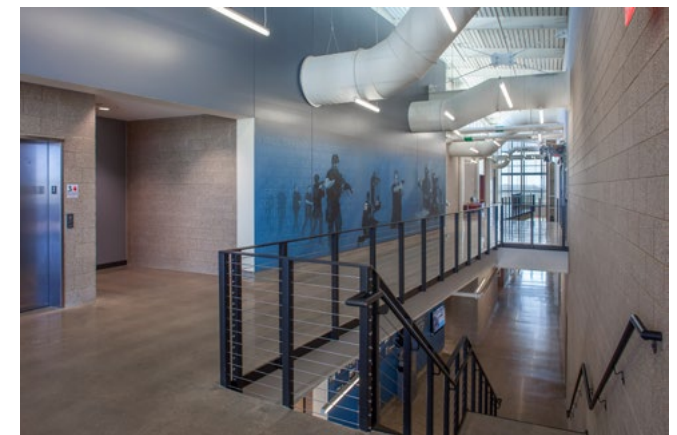





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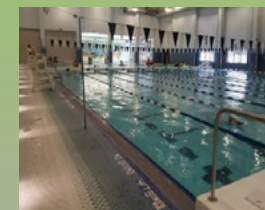


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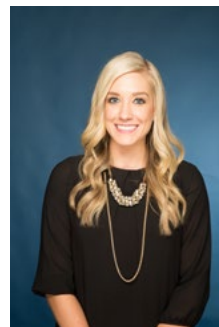
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RK Steel Foothills Mall Shopping Center Project

Jennifer Johnson
Marketing Manager



Near-Dead Mall Now Lively Entertainment Destination

As part of Fort Collins' economic development plan, the Foothills Fashion Mall opened in 1973 as the premier shopping location for northern Colorado and Wyoming. For over forty years, the mall offered residents and travelers the opportunity to gather for shopping, dining and entertainment.

Inadequate Upgrades Result In Low Foot Traffic

Due to inadequate upkeep over the years, the mall went from a local attraction to the city's sore thumb. Residents became increasingly unhappy with the shopping center's outdated design and limited offerings, and at the end of 2013, the mall had become desolate.

In 2014, Fort Collins' City Manager, Darin Atteberry, was desperate to bring the mall back to life. He partnered with Alberta Development Partners to make the mall's revitalization a top priority, envisioning a cinema, parking structure, activity center and major renovations to the mall.

Renovating A Dead Mall With A Top-Notch Team

The project started in June of 2014 and included over 600,000 square feet of transformed space. RK Steel was hired to fabricate and erect the structural steel and miscellaneous steel components for the four facilities. RK Steel's in-house, end-to-end management of the design, fabrication, detailing and installation helped to streamline the project.

Foothills Mall: RK Steel worked with the project team to increase the height of the mall by adding columns and beams to the top of the existing structure. This "pop-top" design made the interior of the mall more appealing with increased height. The team also worked on the new Grand Court and several new mall entries; featuring clearstory windows that allow light to shine throughout the building. In addition, RK Steel fabricated and installed structural steel for the porte cochere.

Cinemark Movie Bistro: RK Steel fabricated and installed all structural and miscellaneous steel for the main entry, roof structure, mezzanine and auditorium. RK Steel also fabricated the auditorium's rails, ladders and compactor gates.

Foothills Activity Center: RK Steel erected the three-story structural steel recreation center and fabricated the two central stair cores and rails.



Activity Center



Cinemark

Foothills Parking Structure: RK Steel built the four stair towers, light walls, roof structures and fabricated the rails and canopies for the five-story pre-cast structure.

Committed To Quality And Zero Incidents On Every Project

RK's site-specific safety plans ensure our employees go home to their families every night, giving them the responsibility and power to stop work any time they feel conditions are unsafe. RK Steel's Project Manager, Sean Crumplar, is passionate about safety stating, "Safety is our top priority without question. Our employees have a family to get home to each night, and an RK Steel family that cares about their well-being every day."

RK Steel is an ISO 9001:2015 and AISC Certified Fabricator and Erector, and quality starts the minute we are in contact with our customer. By setting goals and expectations early, the Foothills Mall Shopping Center project team established a strong rapport and open dialog with on-site field and operations personnel.

Continued on next page

Tough Obstacles Provide Opportunities For Creative Solutions

Open for business: This multi-phased project challenged the team as the mall remained open for business during construction. The project team was able to limit construction noise by scheduling work during odd hours, and by monitoring laydown areas to avoid pedestrian walkways. The RK Steel team also made sure they stayed on schedule by prefabricating as much as possible in RK's shops, to allow for easy installations on-site. The communication between the on-site project team and shops allowed on-time transportation of materials without disruption.

Another obstacle was the mall's old age. After almost 44 years, documentation of previous renovation work was missing – so, the team took on the mall overhaul blindly. To avoid similar issues in the future, they took daily logs for document control, and extreme precaution while completing work each day.

Planning for a complex structure: The Foothills Activity Center includes fitness rooms, classrooms, lockers rooms, meeting spaces, fitness areas and a large gymnasium. The 24,000 square foot gymnasium acts as a bridge, suspended over the road below, connecting the mall and activity center to the new parking structure. RK Steel conducted in-depth project planning before erecting the structural steel building and worked closely with the architect and engineer to ensure project components and responsibilities were established before starting work.

Mother Nature and strict deadlines: The start of the project was slow due to non-stop rain for two months. The weather impacted construction as work areas were flooded. RK Steel's prefabrication capabilities allowed the team to make up any lost time. In addition, the owner had promised that the project would be complete by Black Friday, forcing all crews to work by strict project deadlines, with no room for error. RK Steel used precise scheduling and labor resource planning to overcome all obstacles, completing the project well in advance.

Now The Shops At Foothills Is A Desired Destination

The rebirth of the Foothills Mall Shopping Center, now called The Shops at Foothills, is once again the preferred shopping, dining and entertainment spot for residents and visitors with adequate and up-to-date amenities. RK Steel's contribution has helped to put this important economic driver back on the map for the City of Fort Collins.

For over half a century, customers have relied on RK's experience, impeccable safety and commitment to quality. Contact RK at 303.355.9696 or at www.rkmi.com

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The Shops at Foothills

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- Rocky Mountain Chapter Award of Excellence
- National Pyramid Award

RK Steel fabricated and erected the structural steel and miscellaneous steel components for the new Cinemark Movie Bistro, parking structure and Foothills Activity Center, along with major renovations to the mall.

RK is the region's largest and most capable supplier of construction, manufacturing and services solutions.

With over 50 years of experience, RK's size, financial strength and large team of skilled trade workers can complete and improve any project.

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Recruiting and Talent Retention in the Construction Industry

Matt Beerbower
CPA
Partner & Vice Chair



With the experienced worker shortage alive and well in the construction industry, recruiting and talent retention feels more important than ever!

RubinBrown has identified four strategies that construction firms should consider when it comes to improving talent retention and team member development.

1. Ownership

You may have heard the saying "think like an owner," which is important, but to take it a little further, we're suggesting that you build your team with team members that take ownership of work assigned to them.

Team members that take ownership of projects or jobs assigned to them and who stick with the project until completion are a joy to work with and good role models to have within your organization.

2. Communication

The ability to communicate is important in all aspects of life, but a team member that is all over communication will usually succeed.

Surprises late in a project are rarely good, so your team members must communicate engagement status often to avoid surprises. Encourage your team to think at the end of every day, "What did I do today and who needs to know about it" and then send out status updates accordingly.

3. Service Oriented

We're all in the business of serving others. Someone that has a service-oriented mindset is much more likely to be a good representative of your firm and keep your clients happy!

Serving others is not only important with clients but equally as important internally with other co-workers.

4. Have Fun

Having a little fun at work improves team member morale and should be encouraged. Team members that are "all business" 100% of the time are not fun to work with day in and day out.

The hope should be that your team members build friendships with their co-workers. Statistically, team members that have a friend at work are happier.

While these four characteristics are good to consider during interviews, we'd also recommend having a formal mentoring or coaching program in place at your organization for team members already employed.

The Importance Of Mentoring

The goal of mentoring is to transfer as much knowledge from your experienced team members to your new team members. Competition is alive and well in the construction industry, so this is easier said than done.

Working as a team and providing great quality and service to your customers has to be the top priority for your entire workforce.

A mentoring program should be structured with experienced team members mentoring new team members. Informal mentoring meetings should occur as often as necessary, but a formal meeting should occur at least twice a year.

The formal meetings should be documented with mentoring notes or an evaluation summary. These mentoring notes can be used to follow up on areas identified for improvement.

Founded in 1952, RubinBrown LLP is one of the nation's leading accounting and professional consulting firms. Contact them at 303.698.1883 or online at www.rubinbrown.com.

Facts About Social Media Marketing for Your Business

Scott Merritt
Vice President

**THE SOCIAL
MOVEMENT**



Social Media, like it or not is here to stay. Is your business ready? Because everyone is watching. Your new prospective customers, existing loyal customers, potential investors, and yes, even your competitors are watching your social media platforms and online social presence. The goal is to make sure you are paying as much attention to it as all of them are. Traditional marketing will continue to fade away and become less and less effective, period! Things are changing and they are changing fast. To remain relevant, you will have to adjust to a social online presence.

Social Media for business continues to evolve and can sometimes feel like a complicated puzzle. Using Facebook to market your business is not the same as your personal Facebook or the Facebook your kids are using. Facebook for business is controlled by an algorithm that is set by Facebook that changes regularly, sometimes every two weeks. This is put in place to get you to play by their rules. If you play by the algorithm you will be rewarded, i.e. your post and brand will reach more people. More people will follow you and pay attention to what you are doing. More people will share your

business with others in their networks. Ultimately you will improve your search ranking and position online. But, if you don't play by the rules you will be penalized, and the reach of you page will be restricted.

Sound easy? Well the fact is, it can be a little daunting at first. Don't let that stop you, because it takes time. Don't procrastinate about starting your Social Media Marketing. No one has ever said, "I should have waited to start working on my social media." Instead, most businesses say they should have started two years ago when they were thinking about it and when their competitors did.

You have got to remain consistent. Although Social Media Marketing is the most cost effective form of advertising, you have got to put in the work. Reaching new customers is the goal and takes time and skill. You have got to create good content daily and push it out. If you want to reach new customers and speak to existing ones, you have got to have something to say and you have to get their attention. Creating a buzz around your brand is what the online world is looking for. The content must be interesting enough that people want to

continue to see it or pass it on to others in their networks.

Link building your page will also help build credibility for your brand. By being active and involved socially and linking to other networks, your brand builds trust with consumers and has the ability to be shared and seen by more people. Customers want quick and easy information but they also want to be engaged and have fun. The key is to have the right mix of content.

A strong social media presence builds value for your business. Many companies will build up their online social media presence before they sell a company to create more value in the selling price. The value of your business is not only based on the bottom line financial results, but also by your following and the size of your network.

Customers are making buying decisions every day based on the credibility of your social platforms. The first thing many consumers that are looking for products or services do is an organic search to find what they need. They review what they have found online to make a decision of who to call. Do you have an active presence? Do you have good reviews on Facebook and provide good customer service? Do you look like you are paying attention to your customers? If you don't get found and don't have an active page you are

probably not even being considered by the customer. Remember, if it's not important to you it is important to your competition. You have no idea what you're missing out on.

Social Media can also be used as a communication tool. You can use it to communicate with your team members and keep them up to speed about what's happening at the company. Praise employees and their accomplishments. You can use it to support a cause or position that is important to your business. You can get behind a charity or organization and ask others to support your efforts. And the list goes on.

Sometimes the social media world can seem overwhelming. Am I doing the right things or enough of the right things? How do I use social media marketing to get new customers? How do I know if it's working? These are all valid questions. The key is to stay at it. Try different approaches and see what works. Persistence pays off over time. You must put in the work.

If you have any questions don't panic, just give us a call. The Social Movement prides itself on managing Social Media pages that are customized and unique to your business. Contact them at 303.557.2399 or at www.thesocialmovement.com.

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Thank you.

 **MILENDER WHITE**

Procedures for an OSHA Inspection - Do you know what to do?

Dan Johnson
CSP
Managing Partner



With an overall increase in activity and inspections, construction companies are beginning to feel a much bigger impact from Occupational Safety & Health (OSHA) inspections. OSHA is tasked with a very challenging job of keeping workers safe. The overall goal is to provide a safe and healthful working environment for all workers, not just construction workers. However, construction companies can sometimes feel they are targeted more often due to the incident rates and visibility of the projects.

We have all heard that construction is an inherently hazardous job...does this have to be the case? Safety professionals and OSHA compliance officers say no, construction workers have every right to expect a safe and healthful work environment. With that in mind, there has been an increase in regulatory inspections. These inspections are one of the biggest tools OSHA uses to meet their goals.

If you own a construction company, or manage a construction company, you definitely don't want any accidents on your project, which goes without saying. You have developed a safety program, trained your employees and enforced the safety rules to prevent these accidents. What will you do if a compliance officer from OSHA shows up on your site? Have you prepared for that and trained your employees? Preparing for this occurrence can help you greatly and most likely, save you money. These procedures help ensure your rights are protected.

Here are some basic procedures to follow when OSHA comes to your site:

Arrival of the Compliance Officer

- Verify the Compliance Officer's credentials—look at ID and business card.
- Determine why the Compliance Officer wants to inspect the project, i.e. complaint, accident, programmed, imminent danger, follow-up.

- If a complaint inspection, ask to have a copy of the complaint.
- If a programmed inspection, ask for a focused inspection.
- Tell OSHA that your company policy is to contact your Management and SFI Compliance, Inc. prior to starting the inspection. Have OSHA wait in the construction office while you are making phone calls.
- Call SFI's OSHA Hotline or your Safety Consultant immediately

SFI OSHA Hotline

- Colorado: 303-649-1304 ext. 201
- Email: OSHA@sfi.compliance.com

Brief your SFI Safety Consultant on the situation, and then ask OSHA if they will speak to your SFI Safety Consultant. We will speak to OSHA and make sure everything is in order before the inspection. If you are a client of ours, we will also come to the job to assist during the inspection.

- The following is to be done if a SFI Safety Consultant cannot be at the job when the OSHA inspector conducts the inspection.
 - Request an opening conference if the Compliance Officer does not call for one.
 - Have the project superintendent and/or the project manager present.
 - Take detailed notes of everything discussed.
 - Keep all publications and documents given to you by the Compliance Officer and note who gave it to you and the date of its receipt.
 - If more than one Compliance Officer is involved, find out if they plan to make the inspection in one group or split into two or

more groups to make the inspection. If they want to divide into two or more groups, tell the Compliance Officer you will have an employer representative with each group.

- Be cooperative with the Compliance Officer. At all times prior to, during and after the inspection act in a professional businesslike manner. Never enter into personal arguments with the Compliance Officer.
- Tell the Compliance Officer that you expect him/her to advise the company of all suspected violations and the standard involved. Tell the Compliance Officer that you will be taking notes of all the suspected violations he/she informs you of so that there will be no dispute as to whether the company was informed.

Records Review

- Allow the Compliance Officer to look only at your Site Specific Safety Program, including any tool box talks.
- Do not volunteer to give or let the Compliance Officer look at any safety inspection reports made by SFI Compliance, Inc., insurance carrier, etc. other than those reports required by OSHA (such as scaffolding inspection forms). This includes not giving or letting the Compliance Officer look at any such reports that have been made on subcontractor's activities.
- Inform the compliance officer that these reports will be made available by management at a later time.

Walk Around Inspection

General

- Have the company representative accompany the Compliance Officer at all times. Never leave the Compliance Officer to have free and unlimited access

to your work without the company representative.

- Control the inspection. Treat the Compliance Officer as you would a guest in your house; they are there with permission and will be expected to follow all instructions given to them and will be required to conduct the inspection in such a manner that it does not disrupt the scheduled work. Remember, it is the company's construction project, not OSHA's. The Compliance Officer is to be treated as any other visitor—under your control while on our project. Tell them that you need to take your own notes, pictures, and gather information at the same time.
- Refer all questions the Compliance Officer asks to the Subcontractors Foreman when possible.
- Take detailed notes of everything seen, discussed, and done by the Compliance Officer.
- Take photographs of everything the Compliance Officer photographs. If the equipment, work area, etc., can be photographed from a more favorable position (different angle, greater distance, etc.) photograph it from the different position.
- Do not allow any employee to perform demonstrations for the Compliance Officer. Example—if a truck is idle and the Compliance Officer asks you or an employee to operate it so he can see if the horn or backup alarm is working, refuse to do it. Allow the Compliance Officer to see the work as it is normally being done only.
- Do not volunteer any information. Refer all questions the Compliance Officer asks to the Subcontractors Representative when possible. The Compliance Officer is trained to obtain admissions from companies. Be careful answering questions. When in doubt, ask them to restate the question. Do not admit to a violation. State the facts only, not your opinion. Do not lie to the Compliance Officer at any time.

Continued on next page

ATTENTION ALL ABC CONTRACTOR MEMBERS:

Did you complete the STEP application this year?

If so, ABC Rocky Mountain Member, SFI Compliance will be offering a class for members who participate in STEP; free of charge for the first three attendees from each company!

August 23 - Best Practices for OSHA Inspections

ABC would like to thank Dan Johnson and SFI Compliance for supporting our members who are committed to safety!



- Do not issue orders, such as "clean up the trash", during the inspection to have conditions corrected that have not been noticed by the Compliance Officer. The immediate abatement of an alleged violation will not preclude being cited by the Compliance Officer and may alert them to the condition.
- Make sure you fully understand everything the Compliance Officer does or comments on. If you do not understand everything they say and do, ask questions. Insist on having time to record all facts, even if the inspection is slowed down.

Employee Interviews

- The Compliance Officer may interview any employee privately.
- For interviews held with employees in our presence, record the names and companies of all employees interviewed. Record the content of the conversations with the employees.
- We have the right to be in attendance with management personnel.
- Rules for Being Interviewed
 1. Tell the Truth
 2. Make sure you understand the question
 3. Just answer the question, nothing else
 4. Answer based on your knowledge only ...don't guess or speculate

Closing Conference

- Contact your SFI Safety Consultant prior to the closing conference. Have the designated company representative present for the closing conference.
- Take notes of everything discussed and record what documents were distributed by the Compliance Officer.
- Make sure that no questions you have concerning the inspection go unanswered. If the Compliance Officer feels that violations exist on the project, find out exactly why they feel that way. Tell them that you are noting every potential violation that they advise may exist so there will be no dispute at a later conference or hearing. Hand the list back and ask if that is everything, ask what other items may exist. If they are unsure or do not list any others, tell them that you are noting that no additional items were included in response to your questions.
- Don't give any estimates of abatement time needed to correct any alleged violations.

After the Closing Conference

- Prepare a detailed report of your inspect notes. Include photos and any other relevant information. Send report to your management.
- Keep all notes and pictures taken on file.

After the inspection is complete, you may receive a citation. This can take a week to a couple of months for you to receive. Don't ignore this when you receive the citation, prompt action is required to stay in compliance with the law.

Dan Johnson, CSP is the Managing Partner of SFI Compliance, Inc. (www.sficompliance.com) and a Certified Safety Professional. SFI assists companies throughout the United States with their safety programs, including development, inspections, training and OSHA representation. You may contact Dan at: dan@sficompliance.com



Save the Date: Upcoming Safety Trainings

- May 22 Level 2 Construction Core Competency Training
- June 1 Level 1 Construction Core Competency Training
- July 12 Construction Quality Management

**For questions on the STEP Application and to register for classes, contact Kim Grosel Director of Workforce Development
kgrosel@abcrmc.org
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Start Planning for Lower Tax Rates

Jason Jobgen
Alliance Services

BKD LLP
CPAs & Advisors



It's tax time again and with a newly elected president and Congress, Americans are wondering what tax policy may look like in the near future. The consensus in Washington, D.C., and among tax professionals is that rates will likely come down. Both President Trump and the House have published preliminary tax reform plans that would reduce tax rates for most businesses and individuals.

Whenever tax rate increases are anticipated, many articles offering tax planning ideas to soften the blow of higher taxes are written. However, there also are plenty of tax planning opportunities during years when lower rates are expected. For commercial real estate owners, several strategies are available to time deductions in higher rate years.

Savvy building owners and their tax advisors are loading up tax deductions into 2016 while rates are still high and those deductions are more valuable. A \$1,000 deduction for a taxpayer paying 39.6 percent federal income tax may reduce tax by \$396. However, that same \$1,000 deduction taken in a year when the taxpayer is paying 25 percent federal income tax may reduce tax by \$250. In this case, that \$1,000 deduction was worth \$146 more during the year with the higher tax rate.

If you have commercial real estate holdings, pay a high federal tax rate and believe rates will decline, consider these deduction timing strategies.

Real Estate Cost Segregation

During a cost segregation study, engineers specifically trained in tax depreciation methods identify assets embedded in a building's construction or acquisition costs that can be depreciated for tax through five, seven or 15 years rather than the standard 39 years. The costs associated with these assets are then reclassified, allowing the building owner to accelerate depreciation of the property for tax purposes.

Cost segregation also can be retroactively applied. With current IRS rules, you can complete a cost segregation study on a building that was placed in service during a prior year and "catch up" the additional

depreciation deductions in the current year. Amended tax returns aren't required to take the catch-up deductions and you take those deductions using the current year's rates by filing an accounting method change with the IRS.

Any new construction, existing building purchase or renovation more than \$1 million that took place in the last 15 years may qualify for cost segregation.

The Deduction for Energy Efficient Commercial Property

The Energy Policy Act of 2005 allows commercial property owners a deduction (179D) of up to \$1.80 per square foot on any facility where energy-efficient building systems have been installed. Examples might include the construction of a new building, interior improvements to an existing building or upgrades to a building's lighting or heating, ventilation and air-conditioning systems. This deduction can be taken in the current year for any investments made since 2006. Like cost segregation, the taxpayer can catch up the energy efficiency deductions available from prior-year projects in the current year at the current year's tax rate.

Any new building, building expansion or building upgrade that includes more than 30,000 square feet and took place since 2006 may be a good candidate for the 179D deduction.

Partial Disposition Deductions & Qualified Improvement Property

If renovations were completed last year, you may be able to deduct the tax basis of assets removed during the renovation. With recent rule changes for depreciating tangible property, building owners may be able to make a partial disposition election and deduct the remaining basis of the building components removed during the project.

An opportunity also exists in 2016 to take advantage of bonus depreciation for certain interior building improvement projects. If the costs qualify, you may be able to deduct up to 50 percent of the renovation cost in the first year.

Any commercial building renovation projects that took place during 2016 should be examined for partial disposition and qualified improvement property deductions.

Example

Taxpayer A built a new building in 2012 for \$5 million. An engineering-based cost segregation study wasn't completed at the time of construction. A cost segregation study is completed in 2016 and shows an additional \$800,000 depreciation deduction available for 2012 through 2016 that would otherwise be depreciated through 39 years. In addition, a 179D study shows the building's energy-efficient features qualify for an \$180,000 energy efficiency deduction. The result is an additional \$960,000 deduction in 2016, but what's the true value of that deduction?

The value is highly dependent on Taxpayer A's federal tax rate. The tax rate might be the rate paid by the business in a C corporation structure or the individual owners in an S corporation, partnership or other "pass-through" structure. Let's assume Taxpayer A's federal tax rate is 35 percent in 2016. Let's also assume that in either 2017 or 2018 Taxpayer A believes its tax rate may be reduced to 25 percent. The same \$960,000

deduction will reduce tax liability by \$336,000 in 2016 but only by \$240,000 when spread out through future years at the lower tax rate. The result is the present value benefit of taking those deductions earlier in the building's life rather than through 39 years. There's an additional \$96,000 in tax savings due to the rate difference.

If you believe tax rates are going down, you may want to take advantage of higher rates while you can. When the circumstances are right, planning tools like these can have a powerful effect on your bottom line. Take a few minutes this tax season to think about your facility investments during the last 15 years and whether an opportunity exists to plan for lower tax rates.

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Cornhole Cup

Our 3rd annual Cornhole Cup Competition was a huge success, with over 100 attendees joining us on March 16th at Diebolt Brewing Company for a night of shmoozing and competition. After an evening of heated competition, Brandon VandeLaar (pictured, left) and Denim Smith (pictured, right) of Hensel Phelps took home the prized Cornhole Cup for the second year in a row.

Thank you to the companies who sponsored the Cornhole Cup:

- Presenting Sponsor:* Hensel Phelps
- Event Sponsor:* Milender White
- Tournament Sponsors:* The Buckner Company, RK, and United Repographic Supply
- Drink Sponsors:* United Site Services and Turner Construction Company
- Prize Sponsor:* Diebolt Brewing

Young Professional of the Year



Liz Castro
 CPA



Liz Castro, senior manager in the audit service area of EKS&H LLLP, was given the honor of receiving the Young Professional of the Year Award at ABC's 2017 Chapter Awards. Her B.S. in accounting from the University of Denver and eleven years of public accounting experience have shown dedication and expertise in her field. Liz serves clients in the high-tech, nonprofit, real estate, manufacturing and distribution, construction, and financial services industries. Her expertise lies within IPOs, secondary offerings, SEC reporting, comfort letters, comment letter responses, and special needs of public companies. Liz has co-chaired the Membership Committee for the last 2 years and has been an active member of ABC.



Cornhole Cup Winners (Brandon VandeLaar, left and Denim Smith, right)

Thank You to ABC's YP Supporters

Executive Level



Director Level

- Douglass Colony Group
- FCI Constructors
- Hensel Phelps
- Milender White
- Turner Construction
- White Construction Group

Associate Level

- Fisher & Phillips LLP
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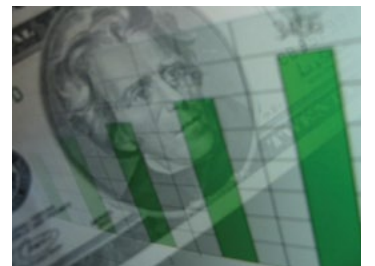
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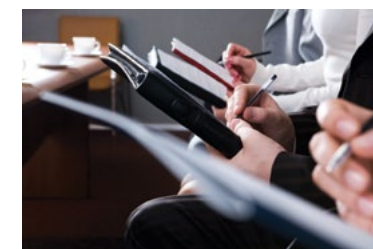
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Building Through Partnerships

Miles Kaplanides
Store Manager - Fort Collins



When it was decided that we were to add on a new shop to our facility I had to decide what was the most important part of this project to myself and more importantly, 4 Rivers Equipment. It did not take long to figure this out as the answer was simple. My partners in this project were going to decide the success of this expansion. 4 Rivers slogan is "Your Working Partner." Now that we were the customer that ideology was definitely going to be paramount for this project to be successful.

Next thought was "Who do I partner with to do this right?" Easy answer again, ABC and all of the great Contractors that are a part of our association. Using ABC and the members made sense to me as it has been a great partner to me for over 12 years.

Within the bidding process we invited multiple ABC members to bid our project. When it was all said and done, I held to my standards and award the bid to DS Constructors. It meant the world to me that I had gotten to know Melinda Denny and her team thru previous ABC events.

Having partners that I knew and trusted thru this project were due to my faith and commitment in ABC.

For many years I have been a member but never could say with full confidence that my being a member benefitted 4 Rivers or other companies. Now I can truly say that ABC directly helped me and my company thru the network of great members in the Association. I'm excited to say that ABC provided me amazing value and partnerships thru this process. In retrospect I see so much more value in ABC over the past years than I saw prior to the project.

I would like to personally thank Melinda Denny and the entire team at DS Constructors along with all the subcontractors who truly made our project a great success. In addition I would encourage everybody to look inside ABC first for partners as I believe in the long run our relationships and partnerships will pay dividends for everybody.

4Rivers Equipment has been serving its customers needs since 1926. Throughout the years, their vision and purpose has remained consistent. They provide the highest quality equipment and machinery and support it with industry leading service and parts departments. You can contact their corporate office at 800.848.3366 or visit www.4riversequipment.com.

Rocky Mountain Chapter Members Win National Awards

ABC Rocky Mountain Chapter congratulates the 10 member companies that won national awards during the Associated Builders and Contractors' 27th annual Excellence in Construction® (EIC) Awards at Workforce Week '17 in Fort Lauderdale, Fla. The awards additionally recognize companies that have displayed a leading commitment to safety and diversity in 2016.

The Excellence in Construction® Awards is the industry's leading competition, honoring innovative and high-quality merit shop construction projects by presenting eagle awards to the top project for each category. The awards honor all members of the construction team, including the contractor, owner, architect, and engineer. The winners are selected from entries across the country and are judged on complexity, attractiveness, unique challenges overcome, completion time, workmanship, innovation, safety, and cost. A panel of industry experts served as judges for the Excellence in Construction Awards.

National Excellence in Construction Eagle Award Winners - 1st Place



Community/Public Service; Rose Andom Center; Denver, Colo.



Institutional - \$5 to \$10 million; Emily Griffith Technical College Shops Relocation; Denver, Colo.



Commercial - \$10 to \$25 million; TIC Training Center & Offices; Aurora, Colo.

National Excellence in Construction Pyramid Award Winners - 2nd Place



Institutional - \$10 to \$25 million; City of Aurora's Public Safety Training Center (CAPSTC); Aurora, Colo.



Exteriors: All other exterior finishes; 1401 Lawrence; Denver, Colo.



Other Specialty Construction – Commercial – More than \$2 million; Foothills Mall Shopping Center; Fort Collins, Colo.



Industrial - \$25 to \$100 million; EPE Montana Units 3 & 4; El Paso, Texas

Continued on next page

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4Rivers Expansion

National Diversity Excellence Award

This honors members who have displayed exceptional leadership in diversity of their workforce, supply chain, and community through best-in-class recruitment, retention practices, and training programs.



General Contractor over \$33 Million; Greeley, Colo.



Supplier; Stamford, Conn.

National Safety Excellence Award

National Safety Awards winners have exemplified an outstanding commitment to safety through training and education programs as well as excellence in all 20 components of ABC's STEP program.



Safety Award of Excellence for Specialty Contractor; Sioux Center, Iowa

A complete list of the Excellence in Construction Awards winners is available on ABC's website.

ADDITIONAL AWARDS

STEP Chapter Participation Awards

The Rocky Mountain Chapter was awarded the STEP Chapter Participation Award for achievement in percentage of contractors participating in STEP Program, ranked as top in the Mountain West Region and second in the country with a 50% participation rate.

Beam Club Awards

The Rocky Mountain Chapter was recognized as a Beam Club winner in the Mountain West Region for helping to facilitate ABC's growth through years of commitment to new member recruitment.

Membership Awards

Awards for Growth & Goal were presented to the Rocky Mountain Chapter for achievements in membership.

Staff Anniversary

The Rocky Mountain Chapter thanks Kim Grosel, Director of Workforce Development, and Joanna Johnson, Director of Meetings and Events, for their 5 years of service with ABC.

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