

## APRIL 2020

### **ALL EVENTS SUBJECT TO CANCELLATION OR POSTPONEMENT!**

#### **MAY**

**May 13**  
**NETWORKING EVENT**  
*TopGolf*

#### **JUNE**

**June 17**  
**Monthly DINNER Meeting**  
*Syberg's on Dorsett*

#### **AUGUST**

**August 19**  
**Monthly DINNER Meeting**  
*Syberg's on Dorsett*

#### **SEPTEMBER**

**September 16**  
**Monthly LUNCH Meeting**  
*Syberg's on Dorsett*

#### **OCTOBER**

**October 5**  
**ASA Golf Tournament**  
*Whitmoor Country Club*

For a full list of all  
ASA Midwest Council events  
visit [www.asamidwest.com](http://www.asamidwest.com)

The monthly President's Message, usually write themselves. Either past ASA events or future ASA events are more than enough subject matter to fill the page, but this month is completely different, as I'm sure the next few months will be as well.

I write this message on the eve of the COVID 19, St. Louis Stay Home – Essential Activities Only Executive Order takes effect. The construction industry and those that supply the industry have been declared essential businesses. The state of Illinois executive order is similar. Love it or hate it, we move forward. Proceeding with construction and production at this trying time, is not just simple business as usual. There are new issues with manpower, supply, and changing rules by the hour. There's no way to foresee all issues, so we re-act to what we know when we know it, which for my business today, is hour by hour.

The actions and reactions surrounding this pandemic, will be studied for years, likely decades after these events transpire. Giving advice or analysis at this point is mostly an exercise in futility, but I will put some suggestions out there. Re-act to what you know as you know it. Plan where you can, don't dwell when the unknown blows your plan out of the water.

ASA national is working in DC to keep the subcontractors voice heard. As opportunities may present themselves for us to act locally, we will be here to do so. Watch your e-mails for take action opportunities, for our voice to be heard, both in our state and in Washington D.C.

As of right now ASA Midwest Council has cancelled events, meetings, and committee meetings, until at least April 30, 2020. I will not give speculation on when events will resume, as it would be just that, speculation. When the time comes that we go back to normal, I assure you we will be here. In the meantime, we will work to keep you informed, and to help in any way possible. If you have questions, feel free to reach out to our executive director, Susan Winkelmann at [susan@asamidwest.com](mailto:susan@asamidwest.com) or 314.845.0855. Check the [asamidwest.com](http://asamidwest.com) and [asaonline.com](http://asaonline.com) websites often, for resources to navigate these uncertain times! Stay safe, stay sane. This will pass.

Tom Henson,  
Affton Fabricating & Welding Co., Inc.  
President, ASA Midwest Council  
[thenson@afwc.com](mailto:thenson@afwc.com)

**ALL ASA EVENTS POSTPONED OR CANCELLED UNTIL APRIL 30TH!  
WE WILL CONTINUE TO MONITOR THE SITUATION AND REPORT UPDATES WHEN  
AVAILABLE. VISIT [www.asamidwest.com](http://www.asamidwest.com) FOR THE LATEST INFORMATION!**

## **ASA Midwest Council needs your time and talent!**



**Are you a new member looking to get more involved with the ASA?  
Or perhaps you are a long time member, and have never joined a committee!**

**We are always looking for committee members to assist with our  
quarterly events, as well as the ongoing committees,  
that help run the organization!**

**If you are interested in joining a committee, contact executive director,  
Susan Winkelmann 314.845.0855 or [susan@asamidwest.com](mailto:susan@asamidwest.com)**

***ASA Midwest Council has been Building. Community. Since 1967!***

## **ASA Recognizes Bazan Painting Company with Certificate of Excellence in Ethics**

ALEXANDRIA, Va.— Bazan Painting Company, St. Louis, Missouri, was one of 13 construction subcontracting firms to earn the American Subcontractors Association's Certificate of Excellence in Ethics. The awards were presented on March 7 during a ceremony in Las Vegas, Nevada in conjunction with ASA's annual national convention, SUBExcel 2020, the premier education and networking event for subcontractors, specialty trade contractors, and suppliers in the construction industry.

The ASA Certificate of Excellence in Ethics is presented to subcontractors, specialty trade contractors, and suppliers in recognition of their commitment to ASA values like quality construction and a safe & healthy work environment.

### **Other ethics certificate recipients were:**

ACE Glass Construction Corp., Little Rock, AR

Banker Insulation, Chandler, Arizona

EyeSite Surveillance, Inc., Chandler, Arizona

Haley-Greer, Inc., Dallas, Texas

Holes Incorporated, Houston, Texas

Kent Companies, Grand Rapids, Michigan

Markham Contracting Company, Phoenix, AZ

Platinum Drywall, Maumelle, Arkansas

Shapiro & Duncan, Inc., Rockville, Maryland

Sorella Group, Inc., Overland Park, Kansas

South Valley Drywall, Inc., Littleton, Colorado

Western Engineering Contractors, Loomis, CA

## **MAY 13, 2020-subject to change! Networking Event**

***TopGolf***  
***16851 N. Outer 40 Rd.***  
***Chesterfield, MO***  
***Wednesday, May 13, 2020***  
***4:30 to 6:30 p.m.***



**Please make plans to join ASA & SITE  
for a joint networking event at TopGolf!**

**Swing on by for 2 hours of Cocktails,  
appetizers & golf for only \$60 per person!**

**Visit [asamidwest.com](http://asamidwest.com)  
to register by 5.6.20.**

Advance registration is required! If you are a member of more than one of the organizations (ASA/SITE) please only register with one organization so we do not have duplicate registrations!

**BAR SPONSORSHIPS AVAILABLE \$300**

**Visit [www.asamidwest.com](http://www.asamidwest.com) to register today!** *This event promises to be a great way to kick off the spring with some networking, food, drinks, and golf!*

*Cancellation by 5.6.20. for refund in original form of payment. After that date, no refund, but you may always send someone in your place if you are unable to attend the event, per ASA Cancellation Policy.*

## What a Hardening Insurance Market Looks Like for Contractors

*Chris O'Hagan*  
*J.D. Kutter*



The last 20 years have seen commercial insurance premiums for contractors in a seemingly endless loop of softening rates. Excess market capacity and solid loss performance pushed insurer underwriting profits ever higher, resulting in a veritable smorgasbord of downward pricing. That trend is changing. At least for a while.

Insurers have raised rates aggressively for certain lines of coverage and classes of business in the last year. And they are warning that that trend will continue. Adding to buyer frustration is the rapidity with which this change occurred and how little an individual company's own positive loss history seems to impact rate increases. Insurers find themselves in an almost perfect storm of increasing losses and continued low interest rates, stifling investment income that insurers have traditionally relied upon to be profitable. Here's what's driving this shift:

1. Catastrophic Property (CAT) losses are only getting larger and more frequent. Say what you want about climate change but Swiss Re, the world's largest reinsurer, says that its actuaries (the best in the world) can no longer accurately predict large weather events. The company paid out over \$500 billion (with a "B") in CAT losses each of the last three years, significantly higher than what its predictive modeling had forecasted.
2. People simply cannot put down their phones when driving, leading to more and more distracted driving events. Couple that with the fact that a bumper that used to cost \$200 fifteen years ago now costs \$2,000 – cameras and computer systems aren't cheap – and right now commercial auto insurance carriers are operating at loss ratios approaching 1,000%.

3. Capacity for umbrella/excess coverage is lower than it was just a year ago. This lack of capacity is being driven by a combination of some major insurers exiting the excess space altogether and by losses from the Auto and General Liability coverage lines piercing the excess/umbrella layer, driving up loss ratios on a line of coverage that typically sees a low number of losses.
4. Jury verdicts are getting bigger, being driven by "social inflation" – a phenomenon created by younger jurors less sympathetic to big business. These verdicts are leading to increased severity losses for General Liability carriers.
5. The average age of the construction worker is increasing quickly. The talent shortage on the younger end of the employment spectrum has created a top-heavy market of more experienced (but older) workers who are more susceptible to frequent and more severe work-related injuries.

It is more important now than any time in the last 20 years that contractors focus on the fundamentals of loss control (worker safety, loss mitigation, fleet safety) and contractual risk transfer (pushing as much risk onto others as they can) while really thinking out of the box with respect to captive and loss-sensitive options, if those programs make sense. With labor and legal liability risks increasing, it is essential for contractors and their brokers to pay attention to the underlying factors driving these rate increases. The carriers certainly are.



*The **Tom Owens Memorial Scholarship** is a 501(c)(3) non-profit organization that provides financial assistance to qualified candidates who are part-time or full-time students who attend or will be attending accredited junior college, college, university or post-graduate institutions.*

Please consider making a tax deductible donation to the **Tom Owens Memorial Scholarship Fund** to further our cause and support deserving students advance their educational goals!

**For additional information about the Scholarship Fund contact  
Chris O'Hagan, J D Kutter [chris@jdkutter.com](mailto:chris@jdkutter.com)**

**[www.asamidwest.com](http://www.asamidwest.com)**

# THANK YOU

**to the MEMBER COMPANIES that attended our recent monthly meeting!**

Affton Fabricating & Welding	Enterprise Bank & Trust	Lawrence Fabric & Metal	Precision Analysis, Inc.
American Steel Fabrication,	Fabick Rents	Structures	RubinBrown LLP
Aschinger Electric	Foreman Fabricators	Lizmark Branded Solutions	Sachs Electric
Bangert Computer Systems	George McDonnell & Sons	Luby Equipment Services	Sandberg Phoenix
Bazan Painting Co.	Golterman & Sabo	Marketeer	Schmersahl Treloar & Co.
BluSky	Guarantee Electrical Co.	MC Service	Seal the Deal Too
Brown Smith Wallace, LLP	Ideas4promos	Montgomery Bank	SFW Partners, LLC
CarsonAllaria	Irwin Products, Inc.	Nu Way	Show Me Industrial Services,
Wealth Management	J.D. Kutter	O.J. Laughlin Plumbing Co.	Sikich, LLP
CK Power	Jarrell Contracting	Pipe and Duct Systems, LLC	Sunbelt Rentals
CSA Advisors	Johnson Controls	Pirtek Overland	T J Wies Contracting
ELCO Chevrolet Cadillac	Knapheide Truck Equipment	Plumbing Planning Corp.	UHY LLP
			Vee-Jay Cement Contracting

# ***Upcoming ASA Midwest Council Meetings & Events***



**ALL EVENTS/MEETINGS/COMMITTEE MEETINGS SUBJECT TO CHANGE AT THIS TIME!**

<b>May 13</b>	<b>ASA/SITE Joint Networking Event TopGolf in Chesterfield</b>
<b>June 17</b>	<b>Monthly Membership DINNER Meeting Syberg's on Dorsett</b>
<b>August 19</b>	<b>Monthly Membership DINNER Meeting Syberg's on Dorsett</b>
<b>September 16</b>	<b>Monthly Membership LUNCH Meeting Syberg's on Dorsett</b>
<b>October 5</b>	<b>ASA Midwest Council Golf Tournament Whitmoor Country Club</b>

**VISIT [WWW.ASAMIDWEST.COM](http://WWW.ASAMIDWEST.COM) TO REGISTER FOR ANY OF THE ABOVE EVENTS!**

**Event registration now requires member login, contact [susan@asamidwest.com](mailto:susan@asamidwest.com) with questions!**

*ASA Midwest Council is on Facebook, Twitter & LinkedIn  
Follow ASA Midwest Council  
for the latest news and information!*







## EVENT CANCELLED DUE TO COVID-19

Due to the current circumstances surrounding COVID-19, and at the direction of local officials & the CDC, we made the difficult decision to cancel the ASA Midwest Council Disco Ball Awards Gala scheduled for March 28th 2020.

While we were disappointed when cancelling this important event, our main concern was, and will continue to be, the health & safety of our members, and the St. Louis construction community!

**We will announce alternate plans for honoring all 2020 award nominees & winners in the near future, as we continue to monitor the situation, using caution and common sense, to act in the best interest of our members, staff, and community. If you have questions, contact [susan@asamidwest.com](mailto:susan@asamidwest.com) or 314.845.0855.**

Please join us for the 33rd Annual

# ASA Midwest Council Golf Tournament



**October 5, 2020 | Whitmoor Country Club | 11:30 am. Tee Time**

***Reservations Required • Sponsorships Available***

  
AMERICAN SUBCONTRACTORS ASSOCIATION  
MIDWEST COUNCIL  
Building. Community.

**All-Inclusive Registration:**  
GOLFER GIFT • COURSE GAMES • LUNCH BUFFET • COCKTAIL HOUR • STEAK DINNER • SILENT AUCTION

# SAVE THE DATE

Building.  
Community.

**EVENT SUBJECT TO CHANGE DUE TO COVID-19, STAY TUNED FOR DETAILS!**

**DATE:**  
**MAY 13, 2020**

**TIME:**  
**4:30 to 6:30 p.m.**



**'SWING' ON BY FOR A JOINT  
ASA/SITE NETWORKING EVENT**

**\$60 per person**

Includes open bar, appetizers and golf

**BAR SPONSORSHIP \$300**

**Advance Registration Required**

*ASA Members register by visiting [www.asamidwest.com](http://www.asamidwest.com) by May 6th.*

***Limited Bar sponsorships available only \$300—includes signage & recognition at event!***

*Register by May 6th and pay by credit card or check. If you belong to both organizations, please only register with one group.  
ASA Cancellation Policy: Cancellation by May 6th for full refund, no refund after that date, but you may always send someone in your place.*





The month of March has been unprecedented not only around the globe, but also in Missouri and within the halls of the Capitol. As everyone is now very aware, the COVID-19 pandemic has affected virtually all aspects of everyday life. In Jefferson City, we have seen the legislative session come to a halt and the Capitol itself has been closed to all but essential employees. Multiple members of the House of Representatives and staff members are now in self-quarantine after the news that Representative Joe Runions (D-Jackson County), had been hospitalized in Kansas City and tested positive for the virus. Runions tested positive for coronavirus on March 20, and thus far is the only lawmaker to have fallen ill to the virus. His last day in the Capitol was March 12, and those who came into contact with him have been urged to take all necessary precautions. At last word, Runions was no longer on a ventilator, but remains hospitalized. In a statement released to media outlets, Runions said, "Although I remain hospitalized, I am getting better, but it will be a long recovery. The most important thing to me right now is for the doctors, nurses and hospitals in our state to get all of the support and supplies they need as they work to treat this illness. My doctors are deeply concerned that they could run out of vital supplies, especially the equipment they need to keep themselves safe while caring for patients. They also say expanded testing is needed to more quickly identify and treat those who have contracted COVID-19."

Governor Mike Parson has been briefing reporters daily on the progression of the disease within the state, including the number of tests being done, and the distribution of supplies and equipment to health care workers and first responders. Thus far, Parson has enacted a "social distancing order", which requires Department of Health and Senior Services Director Dr. Randall Williams to require social distancing statewide. The order prohibits gatherings of more than 10 persons and requires distancing of at least six feet between people. It was set to take effect Monday, March 23 and last until April 6.

Before the onset of the coronavirus, the legislature had been making slow, but steady progress on several bills of interest to ASA. HB1804, which streamlines the permitting process within the Department of Natural Resources has cleared the House and awaits consideration in the Senate. SB906 changes the structure of vehicle registration fees and would add nearly \$47 million to the state road fund is set to be voted on in the Senate Transportation Committee. HB2550 and SB991, which are ASA's priority bills dealing with the right to stop work for lack of payment are awaiting committee hearings. Other bills of interest including roofing contractor licensure, modifications to the amount paid by employers to unemployment compensation, and the right for an employer to refuse to accommodate medical marijuana in the workplace have also all made progress. However, the status of all legislation is now in question with the closure of the Capitol.

Although the legislative process has come to a halt, lawmakers must still formulate a plan on how they will pass a budget for fiscal year 2021. The General Assembly is mandated by the state constitution to pass a spending plan and the executive branch may not expend funds without authority from the legislature. As of the writing of this report, the budget has cleared the committee process in the House, but still faces debate on both the House and Senate floor before heading to the Governor. It is not clear if, when, or how leadership in the House and Senate plan to accommodate debate and voting on the state budget. It is also not clear what the General Assembly or the Governor intend to do with all other legislative agenda items. With no announced plan for the General Assembly to reconvene after their scheduled spring break, the possibility certainly exists for nothing but the budget to pass this year. However, as we have seen since the onset of the COVID-19 pandemic, the situation changes daily.

We will continue to keep you informed on the status of the legislative session and politics in general in Jefferson City and around the state. We appreciate the opportunity to represent you. Nikki Strong, Strong Consulting Group.

# ASA Midwest Council Members

24/7 OnSite Cameras  
Acoustical Ceilings, Inc.  
Acropolis Technology Group  
Affton Fabricating & Welding  
AME Constructors  
American Burglary & Fire, Inc.  
American Steel Fabrication, Inc.  
Anders CPAs + Advisors  
Aqueduct Plumbing LLC  
Archview Metal Systems Co.  
Aschinger Electric  
Aspen Waste Systems  
Autco Appliances  
Auto Trim Restyling  
Bangert Computer Systems  
Bazan Painting Company  
Bell Electrical Contractors  
Benson Electric Company  
Bick Group  
Big Boy's Steel Erection  
Bi-State Fire Protection Corp.  
Bi-State Utilities Company  
BluSky Restoration  
Boyer Fire Protection  
Brown Smith Wallace LLP  
Budrovich  
Building Point Mid-America  
C.E. Bollmeier Company, Inc.  
C. E. Jarrell Contracting  
CK Power  
CMIT Solutions  
CNA Surety  
CSA Advisors LLC  
Cardinal Environmental Operations  
CarsonAllaria Wealth Management  
Cee Kay Supply  
Century Fire Sprinklers, Inc.  
CliftonLarsonAllen, LLP  
Collins & Hermann  
Common Sense Solutions  
Corrigan Company  
Doll Services and Engineering  
Drilling Service Company  
Dynamic Controls, Inc.  
ELCO Chevrolet Cadillac  
Empire Fence & Custom Iron Works  
Enterprise Bank & Trust  
Event Productions, Inc.  
Fabick CAT  
Fenix Construction Co. of STL  
Flooring Systems, Inc.  
Focal Pointe Outdoor Solutions, Inc.

Foreman Fabricators  
Foundation Supportworks by Woods  
Frost Supply  
Galloway, Johnson, Tompkins,  
Burr & Smith  
George McDonnell & Sons  
Golterman & Sabo  
Grant Contracting  
Grasser Electric  
Guarantee Electrical  
H & G Sales, Inc.  
HM Risk  
Haberberger, Inc.  
Hager Companies  
Hanenkamp Electric  
Hansen's Tree, Lawn & Landscaping  
Hawkins Construction & Flatwork  
Hayden Wrecking  
Heitkamp Masonry  
Hoette Concrete  
Ideas4Promos  
Imperial Metal Company  
Integrated Facility Services  
Irwin Products  
JD Kutter  
J.F. Electric  
J.W. Terrill  
John J. Smith Masonry  
Johnson Controls  
Jos. Ward Painting Co.  
K & K Supply, Inc.  
Kaemmerlen Electric  
Kaiser Electric  
KAM's Mechanical LLC  
Kay Bee Electric  
Kirberg Company  
Kirby-Smith Machinery, Inc.  
Knapheide Truck Equipment  
Landesign LLC  
Lawrence Fabric & Metal Structures  
Leach Painting Company  
Liberty Mutual Surety  
Lindberg Waterproofing  
Linek Plumbing Co.  
Lizmark  
Luby Equipment Services  
Marketeer, Inc.  
Meyer Painting Co.  
Midwest Elevator  
Mold Solutions  
Montgomery Bank  
Mueller Prost

Murphy Company  
Negwer Door Systems  
Niehaus Building Services  
NuWay  
O.J. Laughlin Plumbing Co.  
On Site Companies, Inc.  
P & A Drywall Supply  
P.M. Leach Painting Co.  
Pac-Van, Inc.  
Parkway Construction Services  
PayneCrest Electric  
Pearl Street Electric, LLC  
Pirtek Overland  
Pipe and Duct Systems  
Plumbing Planning Corporation  
PPG Paints  
Precision Analysis, Inc.  
Professional Installers  
Professional Metal Works, LLC  
R.F. Meeh Co.  
RJP Electric  
Raineri Building Materials  
Ravensberg, Inc.  
Rental Supply, Inc.  
Rock Hill Mechanical Corp.  
RubinBrown LLP  
Sachs Electric Company  
Safety International, LLC  
Sandberg Phoenix  
Schaeffer Electric Co., Inc.  
Schmersahl Treloar & Co.  
Seal the Deal Too  
Seiler Instruments  
SFW Partners, LLC  
The Sherwin-Williams Co.  
Show Me Industrial Services, Inc.  
Signature Craft  
Sikich LLP  
St. Louis-KC Carpenters Reg Council  
Stylemaster Apparel, Inc.  
Sunbelt Rentals  
Swanson Masonry, Inc.  
T.J. Wies Contracting  
Taylor Excavating  
TROCO Custom Fabrication  
UHY LLP  
USI Insurance Services  
United Rentals  
Vee-Jay Cement Contracting  
Wies Drywall and Construction  
Woodard Cleaning and Restoration  
Worksafe Technologies  
Zurich Surety

*Each month you will receive an update on the committees within ASA, to keep you informed. on current happenings at the committee level. Below are this month's committee reports. Interested in joining a committee? Contact Susan Winkelmann, ASA Executive Director-[susan@asamidwest.com](mailto:susan@asamidwest.com) or 314.845.0855*

## **SAFETY**

Be sure to visit the Members Only Safety Page on the ASA website, for ongoing safety and health tips, as we all navigate these uncertain times together! Lets be Always Safety

Aware! For additional information regarding the ASA Safety Committee, or to join the committee, contact our Safety Committee Co-Chairs: Rose Kastrup with CSA Advisors at (417) 761-4194 or Steve Williams with Bell Electrical at (314) 447-9071.



## **MEMBERSHIP**

The ASA Membership Committee is asking for your help. If you know a subcontractor who could benefit from the resources that ASA brings to its members, let us know. The benefits of ASA membership are many and our committee is very focused on adding quality new members. For Additional information contact on of our Membership Committee Co-Chairs Chris O'Hagan, JD Kutter, at (314) 444-4949 or [chris@jdkutter.com](mailto:chris@jdkutter.com). OR Matt Tucker, Affton Fabricating & Welding, at (618)391-0434 or [mtucker@afwc.com](mailto:mtucker@afwc.com)

## **CONTRACT REVIEW**

By now, everyone has heard of Force Majeure clauses. Remember, they are not all alike. Most allow for only time extensions for delays caused by a pandemic, while others provide for additional compensation plus the time extension. There are lessons to be learned for drafting future subcontracts. Also, bear in mind that even in those jurisdictions where the construction industry is exempt from the "stay at home" orders, there is still the OSHA requirement to provide employees with a place of employment "free from recognized hazards that are causing or are likely to cause death or serious physical harm."

If you have questions regarding the contract review service, contact committee chair, Dick Stockenberg, Sandberg Phoenix, von Gontard [rstockenberg@sandbergphoenix.com](mailto:rstockenberg@sandbergphoenix.com).

## **PROGRAMS**

Our goal is to continue to provide relevant programming to all our members. If you have suggestions for future ASA program topics, please contact either of our Programs Committee Co-Chairs: Chris O'Hagan, [chris@jdkutter.com](mailto:chris@jdkutter.com) or Steve Albart, [salbart@enterprisebank.com](mailto:salbart@enterprisebank.com)



## **Coronavirus is Here: What Does That Mean for Your Project and Your Business?**

*Brian S. Wood; Smith, Currie & Hancock, LLP*

The outbreak of COVID-19 (“coronavirus”) has wreaked a considerable human toll of death, physical suffering, fear, and anxiety internationally. Much of the fear and anxiety results from a lack of information or a full understanding about the spread of the disease, protection against infection, and treatment. At Smith, Currie & Hancock, we urge our clients, friends, and colleagues to take seriously, but calmly and prudently, the threat of this disease to protect yourselves, your loved ones, and your businesses. The first step in that process is to inform yourselves with reliable information. Toward that end, we direct your attention to the Centers for Disease Control and Prevention’s Coronavirus Disease 2019 website.

In addition to the human toll, coronavirus has caused substantial disruptions to economies worldwide. In that regard, the adage “a picture is worth a thousand words,” is particularly foreboding. Satellite images taken by the U.S. National Aeronautics and Space Administration (NASA) of China at the outset of the coronavirus outbreak and approximately a month later show a dramatic decline in air pollution, signifying and illustrating a sharp decline in industrial activity and transportation caused by the disease.

While the outbreak in the U.S. has not reached the magnitude seen in China (greater than 81,000 cases), Italy (~64,000 cases), the U.S. has now has ~46,000 cases, and for the last month has felt the impacts of coronavirus on trade and resultant disruptions to supply chains, as many raw materials used in U.S. manufacturing and manufactured goods consumed in the U.S. originate from China and the other impacted countries. In the last two weeks, the U.S. has begun to suffer more direct impacts from coronavirus, as businesses and public entities across the U.S. have cancelled public and group gatherings of all types, and have announced and begun to implement flexible work arrangements to allow more work from home and restrictions on non-essential travel. All 50 states, plus the District of Columbia, have declared states of emergency. While the CDC, National Institute of Allergy and Infectious Diseases (NIAID), and other health agencies are unable to predict with precision the likely total number of people that will become infected in the U.S. (some researchers estimate upwards of 100 million will become infected), Anthony Fauci, Director of NIAID, testified to Congress on March 11, 2020 simply that “it’s going to get worse.”

The forecast and the continued economic disruption in the U.S. and its trading partners make it increasingly likely that coronavirus will cause appreciable impacts to construction material supply chains, labor availability, and construction projects in general. To prepare for and address this eventuality, owners, contractors, subcontractors, material suppliers, and other construction project participants should consider possible impacts to their labor forces, material availability and price escalation, and disruptions and delays to work. In order to

mitigate these risks, project participants should be mindful of contractual and regulatory obligations, while vigilantly and proactively preserving and exercising their rights. Contracting parties should pay particular attention to regulations and provisions addressing (1) force majeure and other excusable delays; (2) material escalation; and (3) OSHA compliance and other employee health and safety concerns.

### Force Majeure and Excusable Delays

Modern construction contracts commonly contain provisions addressing risks of delays resulting from “force majeure” (translated from French as “superior force”) and other events and circumstances beyond the control of the parties to the contract. Examples of these clauses can be found in ConsensusDocs 200 Section 6.3 and Federal Acquisition Regulation Section 52.249-14. ConsensusDocs 200, Section 6.3 states in part:

### **DELAYS AND EXTENSIONS OF TIME.**

(1) If Constructor is delayed at any time in the commencement or progress of the Work by any cause beyond the control of Constructor, Constructor shall be entitled to an equitable extension of the Contract Time. Examples of causes beyond the control of Constructor include, but are not limited to, the following: (a) acts or omissions of Owner, Design Professional, or Others; (b) changes in the Work or the sequencing of the Work ordered by Owner, or arising from decisions of Owner that impact the time of performance of the Work; (c) encountering Hazardous Materials, or concealed or unknown conditions; (d) delay authorized by Owner pending dispute resolution or suspension by Owner under §11.1; (e) transportation delays not reasonably foreseeable; (f) labor disputes not involving Constructor; (g) general labor disputes impacting the Project but not specifically related to the Worksite; (h) fire; (i) Terrorism; (j) epidemics; (k) adverse governmental actions; (l) unavoidable accidents or circumstances; (m) adverse weather conditions not reasonably anticipated. Constructor shall submit any requests for equitable extensions of Contract Time in accordance with ARTICLE 8.

### **EXCUSABLE DELAYS (APR 1984)**

(a) Except for defaults of subcontractors at any tier, the Contractor shall not be in default because of any failure to perform this contract under its terms if the failure arises from causes beyond the control and without the fault or negligence of the Contractor. Examples of these causes are (1) acts of God or of the public enemy, (2) acts of the Government in either its sovereign or contractual capacity, (3) fires, (4) floods, (5) epidemics, (6) quarantine restrictions, (7) strikes, (8) freight embargoes, and (9) unusually severe weather. In each instance, the failure to perform must be beyond the control and without the fault or negligence of the Contractor. Default includes failure to make progress in the work so as to endanger performance.

**TO READ THE ENTIRE ARTICLE VISIT THE BELOW  
LINK, TO ACCESS THE FASA’S CONTRACTORS  
COMPASS MARCH 2020 EDITION:**

**<https://contractorscompass.org/coronavirus-is-here-what-does-that-mean-for-your-project-and-your-business/>**



## Coronavirus Information!

Coronaviruses are a large family of viruses that cause respiratory illnesses. This family of viruses range from the common cold to more serious conditions, such as Severe Acute Respiratory Syndrome (SARS). A novel coronavirus is a new strain that has not been previously identified in humans. The novel coronavirus, COVID-19, was first reported in Wuhan, China in December 2019 (WHO, 2020a). Thousands of COVID-19 cases have been reported in China and a number of cases have been reported in other countries around the world.

Global efforts are currently focused on containing the spread of the virus and minimizing the impact of the virus (CDC, 2020). There is still a lot that is unknown about the COVID-19 strain. Both the World Health Organization and the United States have declared public health emergencies due to the spread of the virus and have offered to help China in investigating and containing the outbreak. It will take some time and more research to learn about COVID-19 which means it will take a while for a vaccine to be developed.

Persons with COVID-19 infection, flu, or a cold typically develop similar respiratory symptoms. Since the three illnesses are very similar, the only way to confirm if an individual has COVID-19 is to get a laboratory test done. In healthy people, COVID-19 can cause very mild symptoms, but it can lead to more severe infections if left untreated. The elderly and those with pre-existing medical conditions are more vulnerable to becoming severely ill with the virus. In rare cases, COVID-19 can be fatal. If you have a fever, cough, and difficulty breathing it is important to seek medical attention early to reduce the risk of developing a more severe infection. Seeking medical attention early is also important because doing so will help efforts in reducing the spread of the virus within a community.



### Basic Protective Measures Against COVID-19 (WHO, 2020b):

- Wash your hands frequently (at least 20 seconds with soap and water)
- Practice respiratory hygiene (cover sneezes and coughs with elbow, not hands).
- Maintain social distancing (stand at least 6 feet from a person who may be infected).
- Avoid touching eyes, nose, and mouth.
- Individuals with fever, cough, and difficulty breathing should seek medical attention.
- Follow advice provided by healthcare providers. & local, state and national governments.
- Abide by all “stay at home” instructions and practice social distancing!

#### References

Centers for Disease Control and Prevention (CDC). (23 February 2020). Coronavirus Disease 2019 (COVID-19) Situation Summary. Retrieved from <https://www.cdc.gov/coronavirus/2019-ncov/summary.html>

World Health Organization (WHO). (2020a). Coronavirus. Retrieved from <https://www.who.int/health-topics/coronavirus>

World Health Organization (WHO). (2020b). Coronavirus disease (COVID-19) advice for the public. Retrieved from <https://www.who.int/emergencies/diseases/novel-coronavirus-2019/advice-for-public>

- Facts so far - most deaths have been males 65-90. May or may not be related to smoking, not yet clear
- No undue risks to neonatal population
- Anyone who has become very sick and been hospitalized and put on a ventilator has survived, except the very first person who died.
- The long incubation period (you could have this for 8 days and not know it) means that there is virtually no way to stop the spread of the virus
- Regular flu has .1% mortality rate
- Coronavirus has 1.8% mortality rate, but the denominator has been incorrectly calculated, so we don't yet know the true rate; it will likely be similar to the regular flu.

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by inviting someone who would benefit from ASA membership, to join us at the next monthly meeting.*

*All first time non member guests are free of charge.  
Please register your guest in advance by contacting [susan@asamidwest.com](mailto:susan@asamidwest.com)*

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