

CLASS ACT

Surety Team's Cooperative Efforts Enable School to Open on Time

WHEN A SUBCONTRACTOR is unable to complete a construction project, the relationship between the sub's bonding company and the job's general contractor can start out strained and go downhill from there. In some cases their disagreements develop into a battle that ends up in prolonged litigation.

But there are exceptional projects when all of the interested parties pull together to turn a potential disaster into an unqualified success. During the construction of the new Gaithersburg High School in Maryland, the active role played by the agency, Insurance Associates, Inc., and the surety, The Hartford, facilitated a speedy resolution of a subcontractor default.

Warning signs

HESS Construction began building the 420,000-square-foot Gaithersburg High School in the summer of 2011, with completion required by the first day of school in August 2013. The mechanical subcontractor was C&H Mechanical. Although construction manager HESS had some reservations about C&H, it was obliged to accept low bidder C&H because C&H was pre-approved by the client, Montgomery County Public Schools.

Insurance Associates had a double interest in the project. It was the bonding agent for HESS, and, because it had acquired the agency that originally wrote the surety bond through The Hartford, for C&H Mechanical as well.

The first indication of trouble came with C&H's inability to maintain adequate manpower on the job to remain on schedule. In the fall of 2012, Insurance Associates learned that suppliers hadn't received payment from C&H for previous equipment deliveries to the job site and that the vendors were refusing to ship anything more until they were paid.

"That brought everything to a head," said Stephen A. Spencer, President of Insurance Associates, which is based in Rockville, Maryland. "C&H came to us, trying to tell us that they were fine, but we knew things were not going well." After a meeting with C&H, HESS and Montgomery County Public Schools, Insurance Associates advised the mechanical contractor to contact The Hartford.

"Because of our relationship with HESS, we wanted to make sure that things went as smoothly as possible," Spencer continued. "We asked The Hartford to jump on this very quickly. Many times in these processes there are a lot of letters back and forth, and it takes a while. But in this case the school had to be open at a certain time, so we facilitated meetings with C&H, HESS, Montgomery County Schools and The Hartford."

Fast response

The Hartford had already been keeping an eye on C&H's finances. "Prior to C&H reaching out to us in early November 2012, our underwriting office, concerned about the



Steve Spencer, left, and Aldo Pasquariello of the NASBP Member firm Insurance Associates.

company's financials, had required that the project be put into an escrow account process," said Gary Judd, Director of Claim Management. The money HESS paid to C&H went into the escrow, but it soon became apparent that the available funds would not be enough to settle the past-due bills and maintain payroll.

The situation was unusual, however, because C&H, at the urging of Insurance Associates, didn't wait for vendors or HESS to file a claim before contacting The Hartford.

"Typically, when a claim comes from a vendor, there's a lot of

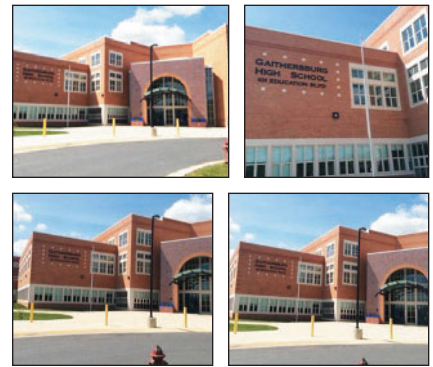
exchange back and forth, and it can take time to figure out what is owed that vendor or supplier. Because C&H came to us, it streamlined the process substantially," said Judd.

The Hartford soon determined that C&H did not have the resources to complete the project successfully and would have to be replaced. But HESS had several concerns about how this would impact the project.

"Sometimes you have a surety that doesn't want to respond or is very

slow in responding, and the project gets harmed," said Chris Carpenito, HESS Executive Vice President and CFO. "Or the surety company wants to replace the contractor with whoever has the lowest price and that subcontractor has problems, too. But this is our premier client, and it was a very high profile school for them. We could not allow that to happen."

In fact, that did not happen at Gaithersburg High School, thanks to



the concerted efforts of The Hartford and of Insurance Associates, which took part in many of the meetings between HESS and the surety.

The Hartford staff worked through the end-of-year holidays that year to request and evaluate proposals from three subcontractors. Judd said that Insurance Associates provided valuable background knowledge about the viability of the various subcontractors during this process.

In early January 2013 The Hartford selected Shapiro & Duncan and agreed to a cost-plus-fee arrangement to accelerate the work and to avoid any financial penalties it might have to pay if the school wasn't ready on time.

"Based on the strength of Shapiro & Duncan's proposal, we were confident in their ability to see the project through to completion," said Judd. "We also knew that HESS and Shapiro & Duncan had a good working relationship from prior projects, which would help this project proceed smoothly."

Back on track

Shapiro & Duncan signed a letter of intent with The Hartford on January 14 and mobilized on site January 21.

"We had determined that the work was about 35 percent complete when it should have been in the 70 percent range," said Mark Drury, Shapiro & Duncan's Vice President of Business Development. Because The Hartford got the new mechanical contractor on site so quickly, the project team was able to prevent any problems with poor workmanship by workers from the company being replaced. The


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Hartford's quick payment of funds for the subcontracted portions of the work also helped Shapiro & Duncan catch up.

"We had 60 men on the job the first week to try to get things straightened out," said Drury. "There were a lot of long days and weekends, and we topped out at 85 people on the site. By the end of March we were pretty much caught up and pushing the job."

HESS completed the Gaithersburg High School on time, and the school opened to students at the start of the new school year in August 2013. Its client, Montgomery County Public Schools, was pleased with the project's results.

"Having problems with a \$12-\$13 million mechanical package smack in the middle of a critical path had all the elements of a catastrophe as far as schedule and HESS' relationship with the client," said Carpenito. "Insurance Associates was working with The Hartford and explaining to them very clearly what the risks were."

"We recognized the urgency and were able to expedite the rebidding process to bring a new subcontractor on board in a very short time," said Judd.

"A month or two after the replacement was completed, you'd forget it even happened. That's almost never the case. You're usually struggling the whole rest of the job because of the impact that a critical path default has on the overall project," said Carpenito.

"We were very pleased with Insurance Associates, with The

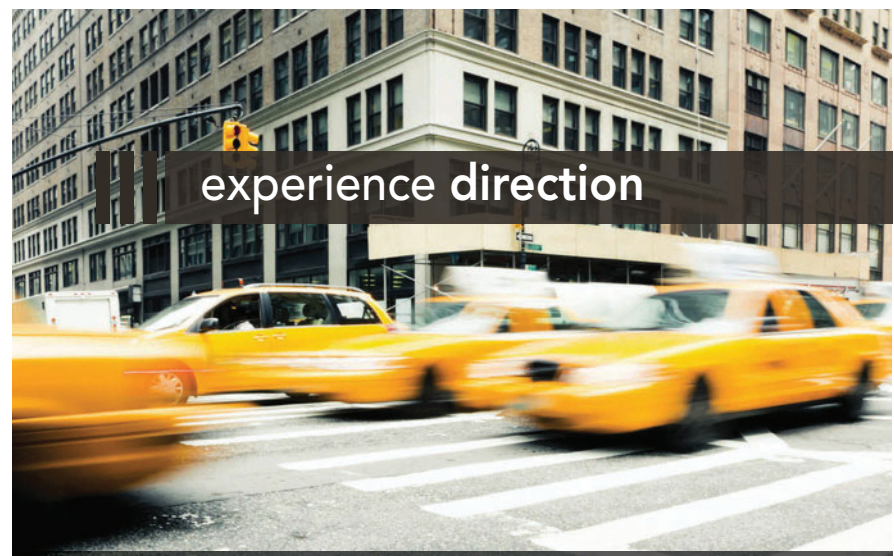
Hartford and with the overall outcome," he added.

The story of Gaithersburg High School demonstrates how a bond producer can work with a surety to help prevent a difficult problem from becoming even worse.

"Even if C&H had been our only client, we would have been able to help, but because HESS is our client as well, we were able to be even more effective," said Aldo Pasquariello,

CIC, Insurance Associates Executive Vice President.

"With Steve Spencer going to the meetings, it proved that a bond producer can add significant value in these kinds of situations," he added. "It's not that we're writing checks or making decisions, but it definitely helped to make everybody understand and be aware of what the downside was if things didn't happen the way they needed to happen." ●



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