**Outline for AGC COVID-19 Presentation**

* **COVID-19 Specific Information**
  + Workplace Infection Prevention
    - Train employees/subcontractors to:
      * Frequently wash hands,
      * Sanitize equipment,
      * Maintaining “social distancing”
      * Wear face masks
    - Remind employees/subcontractors of COVID-19 symptoms.
    - Allow flexibility through this pandemic:
      * Creative pay/ leave symptoms
        + May be required to have PPP loan forgiven.
      * Insist employees/subcontractors remain home for 14 days if they have had a contact with confirmed COVID-19 case.
      * Insist employees/subcontractors who exhibit symptoms stay home from work.
        + Does this affect a company’s ability to have PPP loans forgiven?

If so, can companies around this by paying sick leave?

* + PPP
    - Loan Forgiveness Requirements:
      * PPP loan funds can be forgiven if the funds were used For:
        + Payroll

At least 60 percent of the PPP funds must go towards payroll in order to qualify for loan forgiveness

Including vacation and sick pay

* + - * + Mortgage interest

If the mortgage was signed prior to February 15, 2020

* + - * + Rent

If the lease was signed prior to February 15, 2020

* + - * + Utilities

If the service began prior to February 15, 2020

* + - * Keep all important documentation
        + Payroll

At least 60 percent of the PPP loan proceeds must be used for payroll costs in order to receive full forgiveness

* + - * + Mortgage statements
        + Lease statements
        + Utility statements
      * Loan forgiveness is not “all or nothing.”
      * Employment Decisions Effect on Loan Forgiveness
        + If you were unable to maintain the same number of employees, then the amount forgivable will be decreased proportionally.
        + It is important to note that you don’t need to maintain the same individuals. Rather, you need to maintain the same average number of employees. Paragraph 3 of this [article](https://bench.co/blog/operations/ppp-loan-forgiveness/) does a good job of explaining this concept.
        + If an employee **voluntarily** resigns, it does not affect the amount that you will be forgiven. [Interim Final Rule on Loan Forgiveness, 85 Fed. Reg. 33,004, 33,009 (June 1, 2020) (to be codified at 13 C.F.R. pt. 120)](https://home.treasury.gov/system/files/136/PPP-IFR-Loan-Forgiveness.pdf)
        + If an employee is **terminated for cause**, it does not affect the amount that you will be forgiven. *Id.*

“For cause” has not been define – be careful!

* + - * Fill out [PPP Forgiveness Application](https://www.sba.gov/sites/default/files/2020-05/3245-0407%20SBA%20Form%203508%20PPP%20Forgiveness%20Application.pdf)
* **General Delay Information**
  + Know Your Contract and Follow its Requirements
    - Study your Contract and related documents
  + Open Communication
    - Be open about potential delays, disruptions, and changes.
    - Promptly give verbal *and* written notice of potential impacts
    - Document in detail any adjustments and decisions that have been made
  + Review and Monitor Scheduling Requirements
    - Save All Project Schedules
      * Provide credible schedule updates
      * Provide a valid critical path
      * Connect impact with critical path
      * Be accurate
    - Seek clarification before bidding/accepting bids
    - Understand the process for schedule approval
    - Understand the process for requesting time extensions and for what reasons a time extension is granted.
  + Study Subcontractor/Client History
  + Study Site Conditions Throughout Project
    - Document changes or differing site conditions throughout the project.
  + Understand the Project’s Financing Structure
  + Understand Relevant Statutory Time Periods
    - Preliminary notices for liens or bond claims
    - Filing notices for liens and lien foreclosures
    - Time limitations for filing suits to enforce payment bond claims.
    - Create a “Notice Template” for each notice that is relevant for your project.
  + Supply Chain & Contract Adaption
    - Be prepared to adapt if there are dramatic delays and disruptions.
      * List various suppliers for necessary materials
  + Keep Good Records
    - Designate someone to be responsible for change order management
    - Track changes and their impacts
      * Progress payments
      * Inspection Reports
      * All correspondence
        + Both internal and external correspondence
      * Memos of conversations, inspections, directions, agreements, and observations
      * Photographs and videos of project progress
        + Documents times and dates of photos and videos.
      * Detailed meeting minutes
      * Develop a daily report database
        + Include date
        + Area of construction,
        + Any issues
        + Etc.
  + Develop a Risk Assessment
  + Protect and Support Your Claims
    - Connect impacts with changes
    - File in writing all protests or notices of potential claims within the time period specified in the contract.
    - Give timely notice on Notices of Potential Claims
    - Document calculations of requested price adjustments
    - Keep all bid documents
  + Monitor Job Progress
    - Continue to monitor and study site conditions throughout project
  + Job Completion
    - Document project completion timeline
  + Give Opposing Party the Opportunity to Mitigate
* **Mechanic’s Lien**
  + Timely file a preliminary notice
    - File within 20 days after your first work
    - If filed more than 20 days after your first work, you can only lien for work done more than 5 days after you provided notice.
  + File a mechanic’s lien
    - Deadlines
      * 90 days after a Notice of Completion is filed
      * 180 days from Final Completion if no Notice of Completion is filed
  + Give notice to the owner of the filing of your mechanic’s lien
    - Must give owner notice 30 days after filing of Lien
  + Enforce your lien
    - Must file a lawsuit within 180 days from the date the Lien was filed.
    - File a *Lis Pendens* in the county where the property is located.