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Design for Construction Safety Initiative.

We call your attention to a construction safety initiative that appears to be gaining traction within certain segments of the design and construction industry.

The safety initiative is described under the heading "Design for Construction Safety" or, alternatively, "Prevention through Design." The initiative arises from a working group consisting of members from ASCE's Construction Institute, OSHA, and NIOSH. The group's goal is to "...promote a more deliberate consideration of construction site safety during the design phase of any construction project with the objective of reducing the injuries to construction workers..." While the goal and objectives are noble, the potential liability implications for design professionals, and the consequences to the industry, are far reaching and require a full hearing by designers, contractors, and owners before adoption.

It is indisputable that every decision by a design professional requires the balancing of tradeoffs—costs, aesthetics, operational and maintainability considerations, and construction safety. The current industry state of the practice is that the construction contractor bears complete responsibility for its workers' safety during project construction. This is consistent with the commonly-understood risk management maxim that a risk should be allocated to the party in the best position to control that risk. The Design for Construction Safety initiative, whether intended or not, will reallocate a portion of that risk to the design professional.

We urge design professionals to stay involved with their local and national professional associations, as this safety initiative evolves, by actively participating in discussions and roundtables regarding the initiative. The potential consequence from industry adoption of an overly-aggressive Design for Construction Safety initiative is that the standard of care for design professionals would include a heightened burden on the design professional to evaluate construction safety considerations. Certain specialty contractors, and material suppliers, could face obsolescence if their technique or product is deemed too risky by design professionals who are overly cautious as a result of the safety initiative.

The working group is seeking feedback from the industry. Please visit their website at [www.designforconstructionsafety.org](http://www.designforconstructionsafety.org) to evaluate the initiative, and to comment on the implications of adopting their safety initiative recommendations.

*For more information regarding this Design for Construction Safety Initiative, please contact David Corkum, Partner, Professional Practices Group, Donovan Hatem LLP.*

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