BIM Legal Risks – An Ovem <</MCID 6 ks

Building Information Modeling (BIM) use is both evolving and on the rise, with more and more projects using BIM in a dynamic, collaborative way to benefit a wide array of construction projects. Building Information Modeling, or, BIM, is described by Autodesk as “a process that that involves creating and using an intelligent 3D model to inform and communicate project decisions.” Wikipedia defines it as “a process involving the generation and management of physical and functional characteristics of places.” National Building Information Model Standard Project Committee defines BIM as “a digital representation of physical and functional characteristics of a facility. A BIM is a shared knowledge for information about a facility forming a reliable basis for decisions during its life cycle; defined as existing from earliest conception to demolition.” Regardless of which definition is used, BIM use raises issues that impact the contracting process and call for assessment and management of the risks involved.

While the definitions may vary, BIM in4(d)e e ecoMCID(g)12(tM10(a)4(r)3(e)4(l)-1(ni)-2(t)b 12(t

These features, both in small scale, “silo” BIM (e.g. BIM uses by a single subcontractor or supplier for its own purposes) and in collaborative BIM have the ability to greatly reduce design errors, identify existing errors earlier, to improve communication of changes, and to prevent conflicts. BIM is particularly useful during constructability

and methods, has been facing challenges ever since it was published in 1918 - but no modern development so clearly calls for clarity in contracting as BIM use.

With the introduction of increasingly integrated project delivery methods including design/build and integrated project delivery contracts, and

decisions and changes to be properly documented within the models, and likewise for means and methods decisions to have changes documented in their own models. For any derivative models that are to be prepared under the execution plan, preserving the base models, and assuring that access to create derivative models is only offered to the parties requiring access to create derivative models.

A related concern involves the role of "model manager" (term used by AIA) or "Information Manager" (ConsensusDocs). The individual or entity selected to play this role is the party responsible for BIM Information Management. Although the role may vary from contract to contract, depending on the extent of BIM use and the BIM project goals, this is the party generally responsible for "the measures that protect and defend information and information systems with respect to the availability, integrity, authentication, confidentiality, and non-repudiation. These measures include providing for restoration of information systems by incorporating protection, detection, and reaction capabilities." See, ConsensusDocs BIM Addendum, Sec 3.2. This role, however defined in the contract, is critical to the success of a BIM project – and in the event that there is no IM assigned for the project – those roles would need to be assigned through someone's scope of work in order for the collaboration to be effective. Because the role is often assigned to the party best suited to manage the technology, that role is sometimes not part of the design team. In those circumstances, it would be prudent to carefully consider how the BIM risks being undertaken by that subcontractor should be compensated and insured.

D. Rights of Reliance