



TOPGOLF BIRMINGHAM • 1111 24<sup>TH</sup> STREET N  
OCTOBER 24, 2022 • 1:00-4:00 PM

# SUBALA TOPGOLF TOURNAMENT

Come join us October 24<sup>th</sup> for a fun afternoon at TopGolf Birmingham. From 1:00-4:00, SubAla has reserved the top floor of the venue to create a fun networking opportunity allowing you to interact with your team while introducing yourself to the other 33 teams. Each bay will consist of 6 players. Register a whole team or sign up as an individual and we will assign you to a team that's the best fit for you. The cost for each player includes food and two drink tickets. We will have CASH prizes for the top three teams at the end of the tournament!

Want company recognition? Sponsor a bay and have your company logo rotating on each bay. Sponsor our food, and your company logo will have signage on the food tables and each bay. Sponsor our bar, and your company logo will be on the TVs above the bar and signage on every table. Sponsor the range, and your company logo will have signage at check-in and on every bay. Sponsorships are limited.

## SPONSORSHIP OPPORTUNITIES

- ▮ Bar Sponsor \$1,500
- ▮ Food Sponsor \$1,000
- ▮ Range Sponsor \$600
- ▮ Bay Sponsor \$150

## REGISTRATION FEES

- ▮ 6 Person Team & Bay Sponsor \$910
- ▮ 4 Person Team & Bay Sponsor \$640
- ▮ 6 Person Team \$810
- ▮ 4 Person Team \$540
- ▮ Individual Play \$135
- ▮ Spectator Only \$50

Contact Jenny Davis ([Jennifer@SubAla.org](mailto:Jennifer@SubAla.org)) for more information or go to [subala.org](http://subala.org)

## Subcontractors Association of Alabama & WorkersFirst CompFund

Presents



### A General Contractor Appreciation Night

◇ WEDNESDAY  
SEPTEMBER 28, 2022

◇ 4:00-7:00 PM

◇ Back Forty Birmingham

◇ Unlimited Beer and Wine

◇ Live Music

◇ FREE for SubAla Members

◇ FREE for General Contractors

◇ \$15 for Non-Members

◇ RSVP needed by September 27  
Jenny Davis ([Jennifer@SubAla.org](mailto:Jennifer@SubAla.org))

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## PRICE ESCALATION AND DELAYS IN TODAY'S MARKET

Events such as the worldwide Covid-19 pandemic and more recent Russia-Ukraine conflict have created extraordinary and unusual cost volatility impacting the price of many raw materials and supplies used in construction projects. The impact is widespread. In addition to material cost increases, inflationary pressures exist in all aspects of the distribution chain. Additionally, projects are being delayed, adding to the unpredictability. The result is that subcontractors are receiving steady communication from suppliers about price increases, long lead times, and unavailability. And sellers are reluctant to allow subcontractors to lock in prices for future purchases.

In this market, previously atypical price escalation clauses are ubiquitous in construction contracts. Here are some examples:

***In the event of significant delay or price increase of material occurring during the performance of the contract through no fault of the contractor, the contract sum, time of performance, or contract requirements shall be equitably adjusted by change order in accordance with the procedures of the contract documents.***

***A change in price of an item of material shall be considered significant when the price of an item increases 5% between the date of this contract and the date of installation.***

If there is an escalation clause the contract may also have certain triggering requirements to get an actual increase. For example, a subcontractor might have to provide adequate documentation showing that there was a true and legitimate increase. That is, a response would be that the contractor (and owner) can't just take the subcontractor's word that the price went up. Instead, those upstream will demand rock solid detailed proof. Fulfilling this request means keeping detailed cost data from when the subcontract was signed. And similar pricing information at the time of increase. Suppliers ought to be able to help with this backup.

A second requirement to trigger an escalation clause could be that the subcontractor take reasonable efforts to mitigate the price increase. This could mean showing efforts to find better prices. Or prove what was done to try to buy out or lock in early on prices. A third prerequisite could be that the subcontractor give, in the beginning, a specific list of materials that could potentially increase. This list unfortunately is seemingly continuing to grow and might cover any supply item needed to perform the scope of work.

A final precondition is that notice of the price increase must be clearly given right when the subcontractor learns that pricing has changed. "Notice" requirements are typical in any contract. They usually say that if not provided in a certain number of days, then the claim for a price increase is waived. The general contractor's reasoning for this requirement is that they need the request early so they can promptly pass it onto the owner. They also might want a chance to see if they or the owner can make other arrangements to lessen the escalation impact.

What if you are a subcontractor that is facing a price increase escalation and do not have any contractual price escalation clause such as those listed above? On top of that, how about if the subcontract also has a "no damage for delay" clause stating that if there is a delay outside of the contractor's control the only relief is a time extension and no additional costs? "No damage for delay" clauses are enforced but "strictly construed" by courts. There are ways around them. Some courts have found that these clauses are not enforceable for delays not contemplated by the parties, active interference, or when time extensions are requested by not granted. Contractors facing delays and price increases with unfavorable contract terms have argued that since they are entitled to a time extension, they can stop work under the extension clause until prices return to normal. Owners want to get projects completed. So, concern over a delayed finish might make them more amenable to offer relief even in the face of unfavorable contract terms.

## PRICE ESCALATION AND DELAYS IN TODAY'S MARKET

In conclusion, perhaps now more than ever, a subcontractor must read and negotiate its subcontract. This might mean making changes to the subcontract to include a price escalation clause. Or taking out provisions such as the aforementioned no damage for delay clause. (To be sure, many other important terms should be addressed; but, for this article our focus is price escalation and delays.) Another simpler option, although maybe not as foolproof, is to add and include to the subcontract a one-page rider with key clauses such as one of those above for price escalation. For delays added provisions could be:

***In the event of a delay that is beyond the control of Subcontractor, as a result of force majeure, Contractor delay, or delay caused by another subcontractor, the Subcontractor shall be granted a reasonable extension of time as necessary as a result of the delay considering the duration, timing, and effect of the delay as well as the need for remobilization, rescheduling of materials and labor, etc. required to complete the project.***

***For delays caused by the Owner, Contractor, or the Contractor's subcontractors then Subcontractor shall be entitled to receive payment for costs incurred as a result of such events.***

Be sure the rider is attached to and included as a part of the subcontract. If not, then it does no good.

The following exchange from J.R.R. Tolkien's *The Fellowship of the Rings* is befitting. "I wish it need not have happened in my time," said Frodo. "So do I," said Gandalf, "and so do all who live to see such times. But that is not for them to decide. All we have to decide is what to do with the time that is given us." That holds true for subcontractors. We cannot do much to change today's price escalation "times." But we can decide what we do in light of these times.

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For more information see [alabamaconstructionlaw.com](http://alabamaconstructionlaw.com)

## PRESIDENT'S AWARD 2022

Bob Baker, owner of Hinkle Roofing, has been a member of SubAla for over 23 years and throughout the years has remained actively involved. We are very thankful for his dedication and commitment to enrich the association. He received SubAla's 2022 President Award during the annual convention held in July.

Bob Baker was born and raised in Birmingham, attended Woodlawn High School and received his collegiate degree from the University of Montevallo. After college he returned to Birmingham and worked in the family business, WB Baker and Sons Dairy, until it was sold to Barber's Dairy in 1996. In 1998, Bob purchased Hinkle Roofing and has remained the primary owner since then. He has never looked back on his decision to enter into the roofing business and be a part of this industry.

We are honored to have Bob serve as SubAla's president this year!



## 2022 CHISENHALL AWARD RECIPIENT, BOBBY DOBSON

The Chisenhall Award is the highest award given by the Association. Established in 1971, the Chisenhall Award was named for Herbert Chisenhall who was instrumental in the establishment of ARSM-HACCA, now SubAla, in the early 1950's. The award has always honored association members who exhibit standards of excellence in the industry and their contribution to the success and growth of the association. The recipient is selected by vote of a committee of previous Chisenhall Honorees and presented at the Annual Convention.

We are honored to announce the 2022 Chisenhall Award recipient is Bobby Dobson of Dobson Sheet Metal and Roofing, Inc.

Bobby grew up in Mobile, Alabama and graduated from Murphy High School in 1972. He went on to attend Faulkner State Junior College for three semesters before beginning his career. He completed a four-year Sheet Metal Apprenticeship at Ingalls Shipbuilding in Pascagoula, Mississippi. He then worked at Mobile Sheet Metal and Diamond Roofing in Mobile.

In January of 1978, he began his own company, Dobson Sheet Metal and Roofing Incorporated, where he has remained sole owner and President. Dobson Sheet Metal & Roofing is licensed in Alabama, Mississippi, Louisiana, and Florida. The company has grown into a leading industrial roofing company. Bobby has invested in his employees, spending time training them, encouraging them, and helping them in times of need. His son, Bo Dobson, began working at the company in 2008 and now follows in his father's footsteps. Bobby has never regretted going into business for himself and finds one of his greatest accomplishments being able to sign his own paycheck since he was 23 years old.

Bobby has been a Board Director for the Subcontractors Association of Alabama since 1986. He is a two-time past president, serving in 1993 and 2005. He was a founding member of the South Alabama Roofing Association and served as President in 1991.

Through his company, Bobby has donated resources to community needs, such as youth sports and local nonprofits like Raise the Roof, a ministry that replaces damaged roofs for homeowners in need. Bobby is an

active member of the Mobile community, volunteering with political campaigns and serving in various capacities. He is a former member of the Kiwanis Club.

When he's not busy running his company, Bobby loves spending time in the great outdoors. As a lifelong resident of the Gulf Coast, he has owned and restored many boats and considers boating one of his favorite pastimes. He enjoyed sport fishing in his younger days, and now finds joy crabbing with his 5-year-old grandson, Fraser. During the winter months, he can be found deer hunting with good friends and his son, Bo. He cheers for the Alabama Crimson Tide football team and enjoys watching Nascar racing. He is a very active grandfather to his 3 grandchildren, Celia, Sadie, and Fraser, and attends nearly all of their school and extracurricular events. He and his wife Cherry have been married for 40 years and have attended Cottage Hill Baptist Church since their wedding.



# SPECIAL THANKS TO OUR CONVENTION SPONSORS

We are grateful to our friends who are sponsoring the 2022 SubAla and WorkersFirst convention. We are thankful for their interest in supporting us. Without the generous financial support of all our sponsors, we would not be able to host this type of first-class event. Please take advantage of this opportunity to socialize with representatives of these fine organizations and thank them personally for their support.

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# SAFETY BUZZ

## PUMP THE BRAKES

Virtually across the board, our insureds have never been busier, nor have they had larger backlogs of work. There are not enough hours in the day to get everything done. There are not enough skilled workers to go around. There are not enough good subs to handle the workload. These factors are uncontrollable. But one factor you can control, as a core value within your organization, is to prioritize and reidentify how focused employees are regarding workplace safety. Below lists various situations that can help identify how the current pace and volume of work being performed is impacting workplace safety.

### In the last 2 months:

- 1 company experienced their first claim in 4 years
- 1 company experienced their first claim in 6 years
- 2 companies experienced their first claim in OVER A DECADE
- Multiple car wrecks have occurred
- A long-term employee was severely burned across a large portion of their body
- A young employee ripped open his forearm retrieving tools from a truck-box on his pickup
- Multiple knee injuries while handling materials (all ages)

- Multiple shoulder injuries while handling materials (all ages)
- Multiple employees overcome by heat stress
- A pipelaying foreman with 50 years of experience falling into a trench (18 feet deep)
- 21 claims were submitted in 60 days for cut or smashed parts of the body (hands, arms, legs, feet)
- Multiple falls from ladders and a lift that ended in a myriad of injuries
- An individual picked up a rattlesnake and was bitten
- An employee pinned himself between the side of his truck and a pine tree after failing to put his truck in “park” as he exited the vehicle

The list above should be used to shine light on the effects of being busy and short staffed during the summer. WorkersFirst cares greatly about the health and wellbeing of our insured’s employees. Please take the time to sit staff down regularly and implore them to stay focused on safety. Remind your staff that they are your organizations greatest asset.

**Robert Moore | Loss Control Manager**  
**WorkersFirst Compfund**  
**(334) 322-9497 | robert@workersfirst.net**



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OUR NEWEST SUBALA MEMBERS!**

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