Seven Key Issues for Construction Professionals to Consider When Dealing With COVID-19

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By now every construction professional has been inundated with articles regarding the impacts of COVID-19 on the construction industry. The sheer volume of information is overwhelming and changes by the hour. This article is intended to summarize key issues affecting construction professionals and serve as a general road map for navigating the crisis.

1. Determine Project Status

The first consideration is whether the construction projects at issue are allowed to proceed given "shelter in place" and related orders.

Generally speaking, Governor Newsom has deemed construction to be essential and, therefore, exempt from California's "Safer at Home" order. There is some debate as to whether the governor's order takes priority over contradictory local (City and County) orders. For example, some Northern California counties and the City of Berkeley have issued orders expressly providing that their local orders legally supersede the State order because the local orders are more restrictive.

If a local ordinance, public entity representative, or the project owner orders the project to shut down, the parties will need to make a fact specific determination regarding how to proceed at that time.

If the project proceeds, employee safety is paramount. In the City of Los Angeles employers are required to develop a "comprehensive COVID-19 exposure control plan" that includes a laundry list of safety requirements. Regardless of the jurisdiction, the parties must err on the side of caution and comply with social distancing (six feet), refrain from holding meetings, and close the project to the public. Anyone who can work remotely should be encouraged to do so.

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