

Impact of COVID-19 on Construction Projects: Does Work Stop and Who Pays?

March 24, 2020

The global COVID-19 pandemic is affecting all of us in ways we couldn't even imagine a few weeks ago. This pandemic has touched all of our families, our businesses, our communities and our way of life. We want to take the time to reach out and update you on how we are approaching the situation at Miracle Playsystems.

On March 19, 2020, the entire state of California issued shelter in place orders to slow the spread of the COVID-19 pandemic. This is a rapidly developing and changing circumstance but - among the many critical issues raised by these orders - school and community college districts in every county in the state should consider the impact of shelter in place restrictions on their active construction projects. The government emphasizes the importance of keeping society and businesses running during this temporary situation.

The current shelter in place orders include a carve-out for "public works construction," which includes school and community college district construction projects. The orders deem these projects "Essential Infrastructure," and individuals may leave their residences to provide services or perform work necessary to the operations and maintenance of "Essential Infrastructure." The orders require contractors to carry out the services or work in compliance with social distancing requirements "to the extent possible." The social distancing requirements include maintaining at least a six-foot distance from other individuals. Therefore, depending on the nature and location of the project, the contractor should be able to continue work in compliance with the order.

Districts will also need to look at the specific language of their construction contract. Contracts often contain terms intended to address unforeseen and unavoidable events that prevent a party from performing under the contract. Thus, your construction contract may already provide the parties with language that addresses many of the project questions posed by this health crisis.

This is an evolving, complex area, but Districts should engage in early analysis and action to control the potential impact on their construction projects. If you need more information about how to address the impact of shelter in place orders or similar restrictions on your construction project, please contact an attorney.

We hope this guidance is helpful in this time of uncertainty. Miracle Playsystems will continue to provide guidance as information becomes available. For more information regarding the impact of COVID-19 on your District, please visit our COVID-19 Resources page www.miracleplaygroup.com/weareheretohelp.