Coronavirus (COVID-19) – Impacts to Projects

**UPDATE:** On March 19, 2020, Governor Wolf ordered non-life sustaining businesses to shutdown physical locations, effective March 20, 2020 (enforcement was suspended until 8:00 am on Monday, March 23, 2020). Pursuant to Governor Wolf’s order, residential and non-residential Construction was classified as a non-life sustaining business under the Order, except for emergency repairs and construction of health care facilities. While the information below is still generally applicable to Projects that have been permitted to continue. Please understand in this fluid environment that Construction is now classified as a non-life sustaining business.

The Pennsylvania Department of Community and Economic Development Business Resources has identified Construction as an Essential Business. Therefore, most construction projects have continued to progress. However, some unusual issues may arise during the COVID-19 Virus pandemic. Industry standard contracts generally provide a road map for how to address these concerns. However, if any particular scenario arises on your project, it is important to look to the Contracts being utilized for that specific project – standard contract documents may not be utilized or may have been modified. Further, be alert for legally binding mandates by federal, state or local authorities. *You should contact your legal counsel to address questions concerning your contractual or legal responsibilities and rights stemming from COVID-19 concerns at a construction project site.*

The AIA A201 – 2017 General Conditions of the Contract for Construction include the following provisions, among others, that may apply to the active projects:

**Safety at the Job-Site**

**§ 10.1 Safety Precautions and Programs**
The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract.

**§ 10.2 Safety of Persons and Property**
**§ 10.2.1** The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury, or loss to

1. employees on the Work and other persons who may be affected thereby; . . .

**§ 10.2.2** The Contractor shall comply with, and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, bearing on safety of persons or property or their protection from damage, injury, or loss.

. . .
§ 10.4 Emergencies
In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor’s discretion, to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7.

Suspension of Project

§ 14.3 Suspension by the Owner for Convenience
§ 14.3.1 The Owner may, without cause, order the Contractor in writing to suspend, delay or interrupt the Work, in whole or in part for such period of time as the Owner may determine.

§ 14.3.2 The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay, or interruption under Section 14.3.1. Adjustment of the Contract Sum shall include profit. No adjustment shall be made to the extent

.1 that performance is, was, or would have been, so suspended, delayed, or interrupted, by another cause for which the Contractor is responsible; or

.2 that an equitable adjustment is made or denied under another provision of the Contract.

Michael J. Cremonese, Esquire
John B. Cromer, Esquire
Burke Cromer Cremonese, LLC
517 Court Place
Pittsburgh, PA 15219
412-904-3360
mcremonese@bccattorneys.com
jcromer@bccattorneys.com

This communication conveys general information only and does not provide legal advice or opinions.