

MBA Member Connect Event Q&A April 17, 2020

1. *I have seen some contractors still working--why is this still happening, with restrictions in place and known safety hazards?*
 - a. [They may be performing on essential projects, such as hospitals or temporary housing, or they may be performing to make ongoing projects safe or habitable.](#)
 - b. They may be breaking the law, and the county is gearing up to catch scofflaws and issue citations.
2. *What are my options for my suspended, unfinished projects?*
 - a. Even if project is not “essential”, make sure it is **safe, sanitary, or habitable if the work cannot reasonably be delayed.**
 - b. Ensure site security—fencing, cameras, guards
 - c. Meet with stakeholders—owner, contractor, key subs and suppliers—to plan how to minimize impacts and restart
3. *What financial assistance is available to help keep contractors afloat?*
 - a. SBA programs—[Paycheck Protection Program \(“PPP”\) and Economic Injury Disaster Loan \(“EIDL”\)](#) (presently oversubscribed and not accepting applications).
 - b. See Smith Currie resources
 - i) [SECOND UPDATE: SBA Issues Interim Final Rules on Paycheck Protection Program Loan Eligibility and Use of Affiliation Rules to Determine Applicant’s Size; Treasury Offers Clarifications](#)
 - ii) [UPDATE: The Families First Coronavirus Response Act: What Every Employer Should Know](#)
 - iii) [CARES Act Title I, Section 1110 – Emergency Economic Injury Disaster Loans Grant](#)
 - iv) [CARES Act Title III, Subtitle C – Labor Provisions – Q&A](#)
 - v) [The Families First Coronavirus Response Act: What Every Employer Should Know](#)

4. *Do I lose forgiveness under PPP if I have to lay off people or reduce wages?*
 - a. As long as you restore number and compensation to pre-February 15, 2020 levels, payments using PPP loan funds are forgiven
 - i) [Loan Forgiveness Applies to February 15, 2020 – April 26, 2020 Lay-Off/Rehires](#)
5. *What rules must essential contractors follow on continuing construction sites?*
 - a. Marin has no construction-specific rules
 - b. [General OSHA guidelines apply in Marin](#)
 - c. [CDC Guidelines Apply in Marin](#)
 - d. [San Francisco issued detailed requirements](#)
 - e. [Los Angeles issued handy one-pager](#)
6. *What best practices are you seeing on projects that continue to operate?*
 - a. Communication and lots of it!
 - b. Get stakeholders working together to mitigate impacts
 - c. Worker Health Self-Certification Forms
 - d. [Essential Worker Cards](#)
7. *What's next regarding the relationship between the client and the builder?*
 - a. Some Owners and Contractors will work cooperatively to mitigate and allocate impacts
 - b. Others will suffer claims and litigation over competing contract rights and obligations
 - i) Obligation to complete the work; vs
 - ii) Force majeure relief (or [Civil Code section 1511](#))
8. *When are we going back to work?*
 - a. Dan's crystal ball says think JUNE, per [Governor Newsome Press Release of April 14](#)
 - b. "Newsom says if in two weeks hospitalizations decline and equipment needs are fulfilled, then state leaders may have a more specific idea of when stay at home orders can start to relax." [KRON4, April 14, 2020](#)

--By Daniel F. McLennon

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