

As lockdown restrictions are eased across the country and construction projects that were previously shut down are restarted, contractors will face a host of issues and risks in effectively managing project resumption.

As a follow up to our earlier publication on “Managing Temporary Project Suspensions”, this article is intended to provide a summary of some of the key issues for contractors to consider in order to help manage the unusual circumstances of reopening a construction site during COVID.



### SITE INSPECTION AND RESUMING WORK

- Perform a thorough walk through of the site, noting any damage, theft or irregularities, including any signs of vandalism, water, fire or wind damage.
- Immediately notify your broker of any loss or material change in risk.
- Identify any changes to the job site that are unsafe for returning workers and resolve them prior to reopening - look for things like compromised scaffolding, stairs, safety rails and other temporary installations, trip hazards, unstable excavation/earthworks, and other safety hazards.
- Ensure site remains secure, with uncompromised security, perimeter fencing and lighting.
- Ensure all entry and exit points remain clear and safe for use.
- Test any equipment or machinery that remained on site.
- Confirm with trades and suppliers for resumption of service and coordinate action plan and schedule.
- Consider staggering of trades and site staff to facilitate physical distancing measures and/or any restrictions on site numbers.
- Assess supply chain risk, and, if necessary, consider alternate supply sources and a contingency plan to avoid further schedule delays.
- Determine whether any material supply chain delays can be mitigated to preserve schedule.

### SITE SAFETY

- Develop/update job site health and safety policy for COVID (contact Jones DesLauriers for a sample).
- Ensure adequate supply of personal protective equipment ('PPE'). For a list of companies that supply PPE, visit this link: [PPE Supplier Directory](#).
- Enforce physical distancing measures – particularly in common areas and higher traffic areas.
- If physical distancing must be breached to perform work, establish and enforce a safety protocol for doing so (ie: strict use of PPE).
- Maintain strict personal hygiene measures for workers, including handwashing facilities, sanitizer, PPE, and sanitization of communal areas, site office, etc.
- Consider a COVID screening protocol, and ensure safety policy includes procedure for dealing with staff exhibiting symptoms.
- Ensure jobsite signage alerting workers to COVID protocol and requiring anyone exhibiting symptoms or who has come into contact with an infected person to report this to supervisor.
- Communication with trades to ensure adherence to COVID safety policy and to identify and manage any cases of illness or symptoms.
- For an informative and comprehensive resource on COVID related health and safety for the construction industry, visit the Government of Ontario website at this link: [Ontario COVID Health and Safety](#).

## CONTRACT ADMINISTRATION AND NEGOTIATION

- Quantify and support the schedule and cost impact of any full or partial suspensions (if you haven't already). Some costs such as demobilization, maintenance and remobilization are more easily determined, whereas costs due to mitigation, productivity losses, and acceleration may be harder to calculate and may not be fully known until the end of the project. In all cases, proper notice and communication is key.
- Bear in mind that cost and schedule overruns may (and likely will) impact any project financing arrangements, so it's important that the parties (owner and lender) are aware of these as early as possible.
- Prior to commencing discussions with owner around schedule and cost relief, know your contractual and legal rights as they relate to schedule delays and cost overruns.

## INSURANCE CONSIDERATIONS

- The Builders Risk policy in place must be in force until the project is complete, so it will be important to advise your broker when the work suspension has been lifted as they'll want to manage that accordingly with the insurers - with an estimate as to what the new completion date will be so that an extension can be arranged, if necessary.
- Open lines of communication between contractor, broker and insurer will be more important than ever. Even though your project is back on track, disruption persists and future interruptions are possible, so keep your broker informed of any material changes when they occur.
- Insurance Claims - insurers are fielding far more claims related inquiries which could potentially cause delays in response times. As always, good documentation and a good broker advocate in your corner will help move your claim forward.

## COUNTERPARTY RISK ASSESSMENT

- Upstream: commence dialogue with GC/owner and design consultants around the impact of COVID on them and their ability to resume work and fulfill their obligations.
- On private (non-government) projects, is the owner suffering financial hardship and is there an elevated payment risk? What is the impact on project financing? Does the lender remain committed to the project? What is the impact to financing of any delay and cost overruns? How will any cost overruns be financed?
- For trades who haven't been paid pursuant to contract terms, preserve your rights against any Payment Bond (consult with Jones DesLauriers for advice).
- Downstream: commence dialogue with subs and suppliers around the impact of COVID on their operation - including financial hardship - and their ability to perform. Assess subcontractor default risk and monitor subs closely for signs of non-performance or financial distress. Assess the need for expedited or early payment to keep things moving and avoid a costly default.
- For any bonded subtrades, consider putting the surety on notice if any performance issues arise (consult with Jones DesLauriers for advice).



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For more information and advice on how to manage the risks and disruption to your construction business, contact Jones DesLauriers.

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2375 Skymark Ave.  
Mississauga, ON L4W 4Y6  
877.232.9996

jdimi.com  
navacord.com

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