

April 6, 2020

All Construction Contractors with Active Projects

Dear Contractors:

**Excusable Delay**

The Ministry of Central Services (The “Ministry”) will consider accepting reasonable construction delays during the current COVID-19 Pandemic event as an “Excusable Delay”, provided such a delay:

- is beyond the reasonable control of the contractor;
- could not reasonably have been foreseen;
- could not reasonably have been prevented by means reasonably available to the contractor; **and**,
- occurred without the fault or neglect of the contractor.

The relevant article within our agreement is GC56 DELAY and for purposes of clarity is paraphrased as follows:

**GC56 DELAY**

56.2 If the Contractor is delayed in completion of the work by a cause beyond the Contractor’s control, the scheduled time of completion for the project will be extended for a period of time equal to the time lost due to such delays.

56.4 No Contract Time extension shall be made for delay unless Notice of claim is given to the Consultant within fourteen (14) days of its commencement, provided however, that in the case of a continuing cause of delay only one claim shall be necessary.

Neither the Province nor the Ministry has issued any blanket “stop work” order for construction projects, however the Ministry acknowledges that the work of the contract may be delayed or suspended due to the current situation. On March 20, 2020, Saskatchewan’s Chief Medical Health Officer updated the public health order under The Public Health Act to further reduce the risk of potential COVID-19 transmission in the province. On the same day, Premier Scott Moe signed an order pursuant to the provincial State of Emergency directing that all orders of the government and Chief Medical Health Officer must be followed and that law enforcement agencies in Saskatchewan have the full authority to enforce those orders.

For the purposes of our agreement, the Ministry hereby accepts March 20, 2020, as the date of issue of a Notice of Claim under GC 56 DELAY and the Ministry hereby waives the requirement for such notice “within (14) fourteen days”.

The COVID-19 event will be treated as a “continuing cause of delay” and therefore only this Notice of claim will be necessary. MCS will, at some point in the future, request that you formally communicate to the Consultant and the MCS Project Manager the Contract Time extension required. All projects will be reviewed individually in this regard to arrive at a mutually agreeable time extension.

As a Contractor you may have the right to suspend work or terminate the contract if the work is stopped under an order of public authority. **At this date the Government of Saskatchewan has not issued such an order.** In the event such an order is issued, the relevant article within your agreement is GC59 and for purposes of clarity is paraphrased as follows:

#### **GC59 CONTRACTOR'S RIGHT TO SUSPEND WORK OR TERMINATE THE CONTRACT**

59.1 The Contractor shall have the right to suspend the Work or terminate the Contract if the work is stopped under an order of public authority through no act or fault of the Contractor or by anyone employed by him.

Contractor may upon five (5) days written notice to the Owner stop Work and recover from the Owner payment for all the Work executed and any loss sustained upon the plant or material, with reasonable profit and damages.

The Government of Saskatchewan has deemed Construction an “Allowable Business Service” and has allowed work to proceed on construction sites. Under *The Saskatchewan Employment Act*, Employers have a duty to keep workers and work sites safe and free of hazards, and workers have the right to refuse unsafe work. The Ministry acknowledges that these responsibilities may impose delays on our projects. We have attached a communique titled COVID-19: Health, Safety and Working On-Site that outlines best practices for on-site work.

The Ministry acknowledges that, if you cannot keep workers and work sites safe, and/or workers do not report to site due to illness or themselves consider the work unsafe in numbers that render the Work unsustainable, you have the right to suspend work. In this event, the Ministry asks that you provide five (5) days written notice that you find the need to suspend work until such time as the work may proceed safely.

Please continue to monitor the Saskatchewan.ca web site for any orders that will affect your work on construction sites.

Reasonable “Costs of the Work” will be considered on a project by project basis consistent with our Agreement and in accordance with the terms and conditions of the Contract requirements that apply. The contractor will be compensated for net increases in the cost of the work that can be reasonably justified and for which the contractor has provided reasonable evidence acceptable to the owner, and considering any Federal, Provincial or Municipal support received by the contractor to offset those cost increases.

Harlan Kennedy  
Executive Director, Project Management and Delivery

Attachment (Resources)

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## **COVID-19: HEALTH, SAFETY AND WORKING ON-SITE<sup>[1]</sup>**

### **INTRODUCTION**

This document is a collection of resources, best practices and information links designed to help construction employers understand their rights and responsibilities while operating during the COVID-19 pandemic. This is not a legal document and all construction employers are advised to seek legal advice as part of their overall due diligence process.

While the situation is changing daily, the legislation and regulations used to govern Saskatchewan's workplaces has not changed. Employers still have the duty to keep workers and work sites safe and free of hazards and workers still have the right to refuse unsafe work. Effective communication of new safety procedures and policies will help ensure positive outcomes.

In order to address COVID-19 concerns find below the following resources:

1. COVID-19 Government Announcements
2. On-Site Best Practices
3. Additional Safety Resources and Guides
4. Other Resources

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### **1. COVID-19 GOVERNMENT ANNOUNCEMENTS:**


All levels of government are issuing announcements daily. To stay updated please use the following official links:

- Saskatchewan COVID-19 webpage:  
<https://www.saskatchewan.ca/government/health-care-administration-and-provider-resources/treatment-procedures-and-guidelines/emerging-public-health-issues/2019-novel-coronavirus>
- Canada COVID-19 webpage:  
<https://www.canada.ca/en/public-health/services/diseases/coronavirus-disease-covid-19.html>

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### **2. ON-SITE BEST PRACTICES**

The health and safety of workers is a top concern and increased focus on health and safety is required to keep job-sites open. Below are resources, tips, and best practices employers should follow during the COVID-19 situation:

- a) **Personal Hygiene:** Everyone can take individual steps to prevent the spread of
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COVID-19. Personal hygiene tips include:

- a. Avoid touching your eyes, nose, and mouth with unwashed hands
- b. Cough and sneeze into your elbow or a tissue and wash your hands afterwards
- c. Avoid commonly touched areas including handrails, public transit poles or ensure you clean your hands after
- d. Open doors and touch elevator buttons with gloves, the back of your hand, or other body part or activate the wheelchair accessibility button with the back of your hand, elbow or knee if possible
- e. Wash your clothes as soon as you get home
- f. Notify your supervisor immediately if you are sick and contact public health.

b) **Illness Reporting:** The symptoms of COVID-19 are shared with many other illnesses including the cold and flus. At this time, it is recommended that any worker who is experiencing any symptoms should be sent home. In addition, Employer should advise all workers experiencing symptoms to complete the self- assessment on the [Saskatchewan COVID website](#) and follow instruction there, or Call Health Line 811, or your family physician. Public Health is the leading authority for all issues related to COVID-19 and only they can provide detailed instructions to employees and employers. **PLEASE NOTE** additional resources, policies, and procedures are being developed to provide additional support in this area.

c) **Communicate:** Communication is key, and a clear understanding of roles and responsibilities will be key. Everyone will need ensure health and safety policies are updated and posted for all employees to see. Use industry resources including those produced by the [Saskatchewan Construction Association](#) will improve on site understanding.

d) **Policies:** All employees need to have COVID-19 policies that are posted and communicated with to all employees and contractors/trades. This includes how the site will operate including but not limited to the sanitization of sites, how employees and contractors report illnesses, how to ensure social distancing, and how work will be scheduled.

e) **Social Distancing:** As outlined in several government announcements Social Distancing is required to control the spread of COVID-19. In order to ensure social distancing on site, Employers should consider the following:

- a. Staggered Start times
- b. Staggered breaks
- c. Staggered lunches
- d. Total number of people on-site and where they are assigned to work
- e. Site movement (potential pinch points including hoists and site trailers)

f) **On-site Sanitation:** As outlined in several government documents, on-site sanitation is paramount. All employers have an obligation to increase the

sanitization of sites. Areas of focus should include:

- a. Access to soap and water (ways to properly sanitize hands)
- b. Washroom facilities
- c. Commonly touched surfaces or areas (hoists / site-trailers / door handles/ equipment or residential units)
- d. Limit unnecessary on-site contact between workers and between workers and outside service providers and encourage physical distancing in these areas.

g) **Adjust On-Site and Production Schedules:** In order to keep sites open, production schedules will need to change as impacts of social distancing will impact productivity. Owners and trades will need to collaborate to ensure there is a clear understanding of how production will be impacted. Schedules should consider:

- a. Need for social distancing including staggered work schedules
- b. Sanitation of Sites and workspaces
- c. Reduction of workers (i.e.: in low-rise do not schedule multiple crews in the same unit)
- d. Work-site mobility and transportation including hoist operations

h) **Track and Monitor your workforce.** Due the latency period of COVID-19, it is important to track when workers report an illness as well as where they have worked. In the case of a positive test, Public Health will ask Employers to provide information on where an Employee worked as well as the contact information of anyone who may have been exposed. The better employers track information, the better Public Health can respond.

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### 3. ADDITIONAL SAFETY RESOURCES AND GUIDELINES

COVID-19 Information for Businesses and Workers

The Government of Saskatchewan has created a single online resource for the most current information, statistics and guidelines regarding COVID-19. This information can be accessed the following link: <https://www.saskatchewan.ca/government/health-care-administration-and-provider-resources/treatment-procedures-and-guidelines/emerging-public-health-issues/2019-novel-coronavirus>

[Health Canada](#) – outlines the actions being taken by the Government of Canada, as well as what is happening in provinces and communities across the country related to the virus. It also maintains a live-update of the number of confirmed cases and probable cases by province.

[World Health Organization](#) – is updating on the latest guidance and information related to the global outbreak and spread beyond Canadian borders. It also is providing the most up-to-date information on:

- current research and development around the virus;

- a COVID19 situation “dashboard”
  - emergency preparedness measures; and,
  - live media updates on the spread of the virus.
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#### 4. OTHER RESOURCES

There are a host of additional resources available to help address the ongoing COVID19 outbreak that are aimed at the construction and design industries. Resources include:

- The Canadian Construction Association’s online *Pandemic Preparedness Guide*: <https://www.cca-acc.com/covid-19-resources/>
- The Centre for Disease Control and Prevention’s *Interim Guidance for Businesses and Employers* online resource: <https://bit.ly/2UfRgl9>
- The Harvard Business Review’s Employer Preparedness Questions: <https://bit.ly/2x2OoGS>

[1] With acknowledgement to Province of Ontario