

MDM&C Update

March 19, 2020

New York Construction Industry/COVID-19 Update: New York Executive Order 202.6

In the wake of emergency declarations arising from the COVID-19 pandemic, New York Governor Mario Cuomo issued Executive Order 202.6 in a continuing effort to slow the spread of the virus. In particular, Gov. Cuomo's Executive Order 202.6 mandates that as of March 20, 2020 at 8 p.m., "All businesses and not-for-profit entities in the state shall utilize, to the maximum extent possible, any telecommuting or work from home procedures that they can safely utilize. Each employer shall reduce the in-person workforce at any work locations by 50% no later than March 20 at 8 p.m."

The mandated in-person workforce requirements would of course have a significant impact on construction projects, to the extent that the work locations were located within the State of New York. However, Executive Order 202.6 expressly includes "construction" within the meaning of "essential services." (Emphasis added). Executive Order 202.6 states: "Any essential business or entity providing **essential services** or functions **shall not** be subject to the in-person restrictions." (Emphasis added).

As a result, notwithstanding the in-person workforce reduction mandates applicable to businesses in general, construction projects are apparently deemed exempt as an "essential service." By permitting contractors to progress the work of active construction projects with a full complement of employees, the Governor is helping contractors keep worksites safe, and has the added benefit of keeping a significant business sector active in an extremely challenging economic environment. N.Y. Executive Order 202.6 may also prove important in reducing the incidence of contract surety claims and other claims arising from construction projects.

[Click Here](#) to view a copy of N.Y. Executive Order 202.6. MDM&C will periodically provide additional updates.

Offices

[NEW JERSEY](#) | [NEW YORK](#) | [COLORADO](#) | [PENNSYLVANIA](#)
[CONNECTICUT](#) | [MASSACHUSETTS](#) | [DELAWARE](#) | [RHODE ISLAND](#) | [FLORIDA](#)

The information provided in this Newsletter should not be relied upon as legal advice or a legal opinion on any specific set of facts or circumstances. The contents are intended for general information purposes only and you are urged to consult an attorney concerning your own situation and any specific legal questions you may have. This Newsletter may be considered Advertising under the court rules of certain states.