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A wide-angle photograph of a construction site during the day. In the foreground, there are stacks of wooden planks and metal rebar. Three construction workers wearing hard hats and safety vests are standing in the middle ground, looking at some papers. In the background, a large yellow tower crane is visible against a cloudy sky. The site is filled with various construction materials and structures under development.

# Contracting and Procurement in a COVID-19 World

Wednesday October 14, 2020

# COVID-19 Impacts

Labour Availability

Supply Chain Disruption

Project Design <sup>Delay</sup>

Working in a Different Way

Government Shutdown

Essential Service Lists

Productivity Loss

Demobilization and Remobilization

PPE Costs

Permits and Licenses

Health & Safety Protocols

Access to Justice





# Risk Allocated through Project Delivery Method and Fee Model

- Project Delivery Method
  - Design-Bid-Build
  - Design-Build
  - Construction Manager at-risk
  - Construction Manager not-at-risk
  - Integrated Project Delivery (IPD)
- Fee Model
  - Stipulated Price/Fixed Fee
  - Cost Plus

# Contract Clauses: Force Majeure

- Force Majeure
- Frustration
- Monetary Compensation for Force Majeure Events

# Contract Clauses: Delay

- Categorization
  - Owner interference
  - Government order
  - Force majeure
  - Change in laws





# What have we seen? COVID-19 Clauses

- Procurement
- Importance of Timely Notices
- Suspension/Termination Clauses
- Health and Safety terms
- Entitlement to Relief
- Quantification of Losses
- Bonding and Insurance

# Best Practices

- Precise, realistic, and current schedule
- High levels of communication with construction partners
- Designated, responsible project personnel
- Meticulous, organized, and consistent documentation practices
- Spirit of collaboration and innovation

# Questions?

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## Contact:

**Jason J. Annibale**  
National Co-Chair, Construction  
416.865.7912  
[Jason.Annibale@mcmillan.ca](mailto:Jason.Annibale@mcmillan.ca)

**Annik Forristal**  
Partner  
416.865.7292  
[Annik.Forristal@mcmillan.ca](mailto:Annik.Forristal@mcmillan.ca)



## McMillan offices

### Vancouver

Royal Centre, 1055 West Georgia Street  
Suite 1500, PO Box 11117  
Vancouver, British Columbia  
Canada V6E 4N7  
t: 604.689.9111

### Calgary

TD Canada Trust Tower, Suite 1700  
421 7<sup>th</sup> Avenue S.W.  
Calgary, Alberta  
Canada T2P 4K9  
t: 403.531.4700

### Toronto

Brookfield Place, Suite 4400  
181 Bay Street  
Toronto, Ontario  
Canada M5J 2T3  
t: 416.865.7000

### Ottawa

World Exchange Plaza  
45 O'Connor Street, Suite 2000  
Ottawa, Ontario  
Canada K1P 1A4  
t: 613.232.7171

### Montréal

1000 Sherbrooke Street West  
Suite 2700  
Montréal, QC  
Canada H3A 3G4  
t: 514.987.5000

### Hong Kong

3502 Tower 2 Lippo Centre  
89 Queensway  
Hong Kong, China  
t: 852.3101.0213