



# SUMMER

OUR 57TH YEAR

CONTRA COSTA CHAPTER

April 2020

## Navigating in Uncharted Waters

*It appears that dealing with the various aspects of COVID-19 will become more complicated with each passing day. As a result, we will attempt to keep you current by updating what was our monthly newsletter to a more frequent basis. We will continue to arrange the information you need to know about into the same functional areas we did in our March newsletter. The base documents for our thoughts can be found by clicking on the links in each section. **With that in mind, we are offering the following guidance as of 11:00 a.m. on Wednesday, April 1, 2020. Clearly, your next significant challenge will be dealing with the revised Shelter-In-Place Order issued by the County and guiding your employees to the best possible relief.***

### Shelter-In-Place Order for Contra Costa County

On Monday, March 16<sup>th</sup>, Contra Costa County along with a number of Bay Area Counties issued a Shelter-In-Place that took effect March 17<sup>th</sup>. On March 31<sup>st</sup>, that Order was modified significantly and will profoundly impact the construction industry in Contra Costa County, as well as the other six Bay Area Counties. Under Section 13. Definitions and Exemptions (c) and (f) are as follows:

- (c) For the purposes of this Order, individuals may leave their residence to provide any services or perform any work necessary to the operation and maintenance of "Essential Infrastructure," including airports, utilities (including water, sewer, gas, and electrical), oil refining, roads and highways, public transportation, solid waste facilities (including collection, removal, disposal, and processing facilities), cemeteries, mortuaries, crematoriums, and telecommunications systems (including the provision of essential global, national, and local infrastructure for internet, computing services, business infrastructure, communications, and web-based services).

# **Shelter-In-Place Order for Contra Costa County**

*Continued from Page One*

- (f) v. Construction, but only of the types listed in this subparagraph below:
1. Projects immediately necessary to the maintenance, operation or repair of Essential Infrastructure;
  2. Projects associated with Healthcare Operations, including creating or expanding Healthcare Operations, provided that such construction is directly related to the COVID-19 response;
  3. Affordable housing that is or will be income-restricted, including multi-unit or mixed use developments containing at least 10% income-restricted units;
  4. Public-works projects if specifically designated as an Essential Governmental Function by the lead governmental agency;
  5. Shelters and temporary housing, but not including hotels or motels;
  6. Projects immediately necessary to provide critical non-commercial services to individuals experiencing homelessness, elderly persons, persons who are economically disadvantaged, and persons with special needs.
  7. Construction necessary to ensure that existing construction sites that must be shut-down under this Order are left in a safe and secure manner, but only to the extent necessary to do so, and
  8. Construction or repair necessary to ensure that residences and buildings containing Essential Businesses are safe, sanitary, or habitable to the extent such construction or repair cannot reasonably be delayed.
- xii. Plumbers, electricians, exterminators, and other service providers who provide services that are necessary to maintaining the habitability, sanitation, and operation of residences and Essential Businesses, but not for cosmetic or other purposes.

The net effect of these changes, which reflect a significant departure from the original order, is to limit construction activity to new residential if it is for low-income or homeless purposes and limit construction in other areas to more of an operations maintenance function.

***New Requirements for All Essential Businesses:*** **Before Friday, April 3, 2020,** essential businesses that continue to operate facilities in the County must create, post, and implement a Social Distancing Protocol for each facility frequented by employees or the public, using the [template](#) attached to the Order. Essential businesses must also provide a copy of their Social Distancing Protocol to all employees and must provide evidence of its implementation to any authority enforcing the Order on demand.

## **[Executive Summary of the New Shelter Order for Contra Costa County](#)**

*(Includes Detailed Summary of Changes)*

More information can be found about COVID-19 activities within Contra Costa County and surrounding areas by clicking on the individual links below:

[Alameda](#), [Berkeley](#), [Contra Costa](#), [Marin](#), [San Francisco](#), [San Mateo](#), [Santa Clara](#)

## Essential Services Employee Travel

### Essential Services Employee Travel

NECA has drafted this generic letter that an employer could provide to their employees, in the event of a lock down, that they are employed in an essential service and are able to be at work per the executive order. Every state and/or locale may have slightly different requirements, but this should be a good starting point. You will need to amend to fit your specific needs.

### [Essential Services Employee Travel Notice Template](#)

*If you would like to download in Word click [here](#) and then click "Download in Word link" in left hand column underneath the heading "Essential Services Employee Travel Notice Template."*

## Jobsite Disruptions

On March 16, 2020, the National Office of NECA and the International Office of the IBEW issued a new "[National Disease Emergency Response Agreement \(NDERA\)](#)," which offers guidance on how to handle situations on the job when someone may present symptoms and offers a provision for the temporary furlough of employees that might not otherwise apply to certain labor agreements.

### [Joint NECA/IBEW NDERA Questions & Answers](#)

Absent a local agreement covering the same topic, the National Agreement will apply. So far, only [Local 6/San Francisco \(SFECA\)](#) and [Local 332/Santa Clara Valley Chapter](#), NECA, have local agreements.

## Employment Law

We anticipate that you will be faced with numerous employment law dilemmas as a result of this outbreak. For a guide on answering questions like: can an employee refuse to go to work, can you send home a sick employee, or the like, please refer to [Labor and Employment Q&A](#). Keep in mind that the agreement between NECA and IBEW will prevail in the event of a conflict with several of the provisions addressed in the Q&A. (See NDERA above.)

## Technology and Innovation

There are devices available to help you document the status of your jobsites that you may no longer have access to. Use the link below to develop the ability to visit any jobsite anywhere on any device.

### [Document Your Jobsite in the Wake of COVID-19](#)

## **Understanding Contract Rights Related to Construction** **Impacts from the COVID-19 Pandemic**

A number of private jobs have been shut down as directed by the general contractor or customer. If you received such a directive verbally, we suggest you send a confirming email, for reasons that will become clear as you read further.

Even if jobsites aren't shutdown, you can still expect significant impacts to ongoing construction projects, delaying project duration. Anticipating potential delay claim questions, we attach legal guidance on [Force Majeure Claims](#), and [related forms](#) provided by Cohen, Seglias, Pallas, Greenghall & Furman, and [Force Majeure Clauses Take Center Stage](#) provided by Trent Cotney, CEO of Cotney Construction Law.

The National Electrical Contractors Association ("NECA") and Faegre Drinker Biddle & Reath LLP ("Faegre Drinker") have prepared this information sheet to help your company better understand its contract rights and obligations as they relate to the COVID-19 pandemic.

### **[NECA's Overview](#)**

Kevin Tighe, Vice President, Customer & Field Services, NECA, has provided us with the following template: [COVID-19 Construction Impact Notice Template](#)

*If you would like to download in Word click [here](#) and then click "Download in Word link" in left hand column underneath the heading "COVID-19 Construction Impact Notice Template."*

# **Families First Coronavirus Response Act**

Last week, the Department of Labor issued further guidance on the new Federal Paid Sick Leave and Family and Medical Leave in a series of [Questions and Answers](#). And now, the latest from Sweeney, Mason and Wilson, providing you with clarity on how and when both types of leave can be used (see below). Most importantly, understand the difference between unemployment insurance and the two new forms of leave from the Federal Government.



## ***Coronavirus (COVID-19) Update:***

### ***U.S. Department of Labor Issues Additional Guidance on FFCRA***

**Overview:** The FFCRA requires employers with fewer than 500 employees to provide paid sick leave and expanded family and medical leave for specified reasons related to COVID-19.

**Effective Date:** These provisions go into effect on April 1, 2020 and will remain in place through December 31, 2020.

**Required Notice:** All employers with fewer than 500 employees should immediately post the notice prepared by the Department of Labor and available [here](#).

**Delayed Enforcement:** The DOL will not bring enforcement actions against employers for violations of the FFCRA prior to April 17, 2020, provided that the employer has made reasonable, good faith efforts to comply with the FFCRA.

**Administration:** The new guidance from the DOL can be found in [Questions 15-37](#), but we strongly encourage employers to read the entire Q&A. Some highlights:

- Paid sick leave and paid FMLA are not available to employees with reduced hours, while on furlough, or whose workplaces are closed. See Questions 23-28.
- These leaves do not apply to employees whose workplaces are closed due to a federal, state, or local shelter-in-place or stay-at-home order, or due to business slowdowns. See Questions 23 and 27.
- These leaves, and the payroll tax credit, are not retroactive. Employees are not entitled to pay under these leaves if they were absent or out of work, for any reason, prior to April 1. See Question 13.
- Both emergency paid sick leave (EPSL) and emergency Family and Medical Leave (EFMLA) can be taken on an intermittent basis in certain situations. See Questions 20-22 for explanations about when intermittent leave is allowed.
- Employees may not be required to use other forms of paid leave prior to or concurrently with EPSL or EFMLA. See Questions 32 and 33.

Employers should keep documentation to show that employees who received leave were actually in need of leave. The documentation requirements will be outlined in soon-to-be-released IRS guidance. See Questions 15 and 16.

## CARES Act

### NECA Contractors' Guide to the CARES Act + Gov't Affairs Webinar Q&A

The \$2 trillion Phase III package, the Coronavirus Aid, Relief, and Economic Security (CARES) Act, contains scores of provisions providing relief to large segments of the United States economy decimated by the crisis. Specifically, for NECA contractors, the CARES Act includes assistance to small businesses in the form of several loan options through the Small Business Administration (SBA).

It is important to note that Congressional enactment of this legislation is only the first step in the process. After passage, departments and agencies across the federal government will be responsible for implementation, a process that could be challenging for newly created or significantly expanded programs. We will be monitoring these developments and provide updates.

### **NECA has compiled several helpful documents to better understand your business options as a result of this new law:**

[NECA Summary: Key Provisions of the CARES Act](#)

[NECA Government Affairs Webinar Recording on CARES Act](#)

[NECA Government Affairs Webinar Q&A](#)

[NECA Government Affairs Webinar Presentation](#)

U.S. Senate Committee on Small Business and Entrepreneurship:

[The Small Business Owners' Guide to the CARES Act](#)

Small Business Administration:

[COVID-19 Small Businesses Guidance & Loan Resources](#)

## Safety Concerns

◇ Cal/OSHA is advising on what is required to protect workers from exposure to airborne infectious diseases such as the Coronavirus. Guidance documents, educational materials and model programs have been posted on [Cal/OSHA's website](#) to help employer's comply with the requirements. Cal/OSHA recommends employers review this guidance along with their existing procedures to ensure that their plans are effectively protecting workers.

◇ Cleaning of Tools:

Milwaukee - Cleaning of Tools to Help Prevent Spread of COVID-19  
Click [here](#) to view/download.

◇ NECA has added two Safety Templates to their COVID-19 Resource Center:

[Coronavirus Risk Assessment](#)

[NECA Example Exposure Control Plan \(ECP\)](#)

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# Establishing a NECA Safety Personnel Communications Network

In recent response to COVID-19, NECA is developing a NECA Safety Personnel Special Communications Network. The need for fast and effective communication between NECA and NECA Member Safety Professionals and representatives is very important.

This network will be a targeted communication forum for NECA to provide solutions and the latest resources to our members. In addition, we will be able to assist one another with information and expertise as we face new challenges every day. Keeping employer and employee safety at the forefront is a NECA goal.

To join this network, please provide your name, email and company information to the NECA Safety inbox as soon as possible.

**SUBMIT YOUR INFO HERE**

## State Benefits for Employees

Depending on the exact circumstances, in addition to the two new forms of Federal Leave, your employees may be eligible for State Disability Benefits (if they have the supporting medical documentation), Paid Family Leave (if they are caring for a family member), or Unemployment Insurance Benefits. [EDD State of California Coronavirus 2019 \(COVID-19\) FAQs](#) will provide many questions and answers that both employees and their employers will have.

# CORONAVIRUS 2019 (COVID-19)

## Worker Scenarios

If you're unable to work due to medical quarantine or illness related to COVID-19\*

Disability Insurance

If you're unable to work because you're caring for an ill or quarantined family member with COVID-19\*, or your child's school shuts down\*

Paid Family Leave

If you have lost your job or have had your hours reduced for reasons related to COVID-19

Unemployment Insurance

## Employer Scenarios

If your business is experiencing a slow down as a result of COVID-19

Work Sharing Program

If your business is experiencing a hardship due to COVID-19, you can request an extension to file or deposit state payroll taxes

Taxpayer Assistance Center

*For any employees you have furloughed prior to April 1, unemployment benefits will be the most likely source of support.*

## **Expanded Retirement and Health Care Coverage Provisions**

[Summary and Amendment](#), resulting from the CARES Act passed last week, impacting the Contra Costa County Electrical Workers Retirement Plan in allowing a distribution from the Retirement Plan to those employees who are impacted by the Coronavirus.

We have made provisions for prescription drugs and COVID-19 testing for all participants in the Electrical Workers Health and Welfare Plan for Contra Costa County. Those provisions can be found [here](#) and apply effective immediately.

The Sound and Communication Health Trust has also been amended to provide coverage for the Virus as well as expanded coverage provisions for those losing eligibility due to reduced work hours as a result of the virus. Click [here](#) to see the Amendment.

## **NECA, Inc. Resources**

NECA, Inc. is monitoring concerns over the impact of the coronavirus (COVID-19) very closely. The association has launched a dedicated [Website Resource Center](#) with direct links to information from the federal government, health organizations, and industry partners. This new web portal will be continually updated as further information becomes available.

NECA, Inc. is carefully reviewing all statements and guidance issued by the US Occupational Safety and Health Administration (OSHA), the US Centers for Disease Control (CDC) and the World Health Organization (WHO).

All NECA, Inc. members should monitor news releases from the CDC and WHO closely and review their internal policies, guidelines, and action plans.

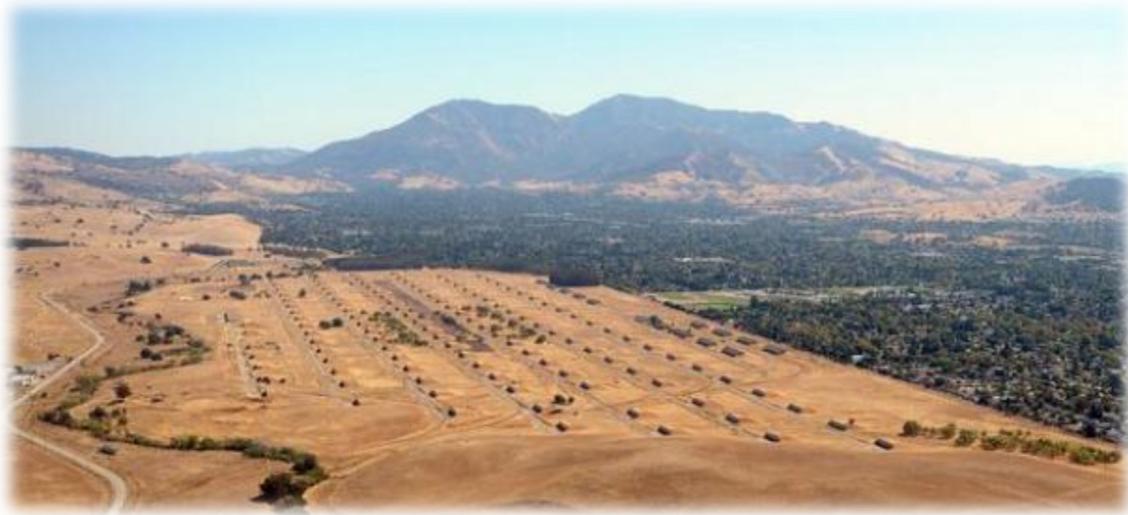
## **Apprenticeship/Referral**

All Inside apprenticeship classes have been canceled through Friday, May 1<sup>st</sup>. Local 302 will dispatch people if you should need them. Their office is operating, the doors are locked.

**The Contra Costa Chapter will continue to keep you updated with any developments as they become available. Please feel free to contact our office with any further questions or concerns (925-372-3222).**

# IN OTHER NEWS

## **Concord Calls Halt to Bay Area's Biggest Development Project**



Concord has severed discussions with Lennar Corp. over the massive Concord Naval Weapons Station site, where the developer had planned to ultimately build up to 13,000 new homes.

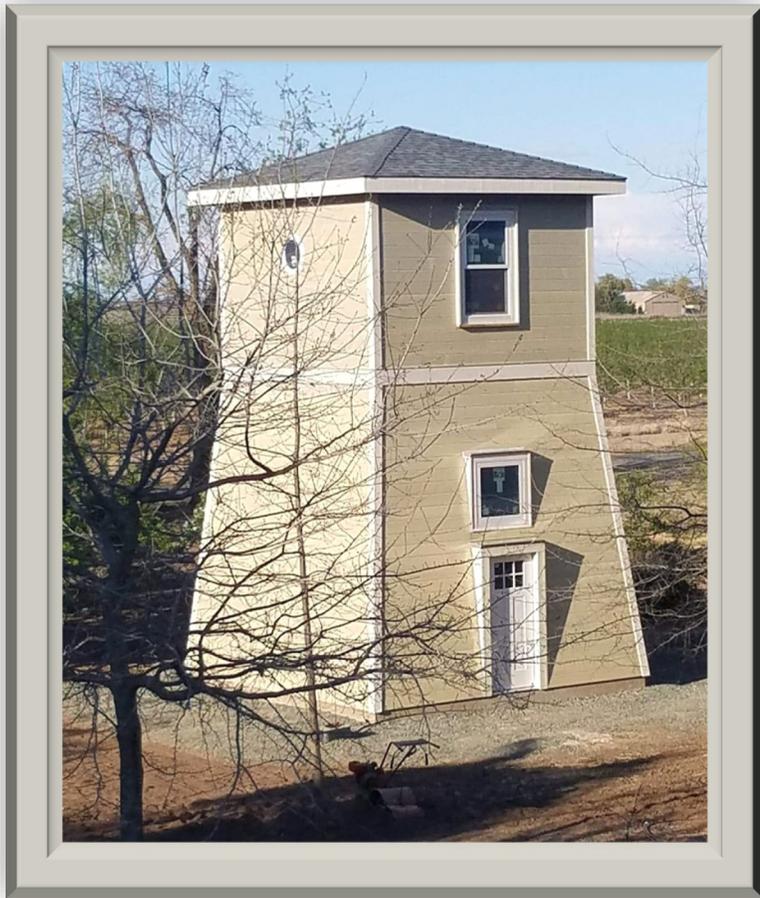
Meeting remotely by video conference, the Concord City Council voted 3-2 Tuesday to reject Lennar's request to extend its exclusive negotiating agreement and will instead let the existing agreement expire on March 31.

The city and the Contra Costa Building Trades Council have been at loggerheads with Lennar for several months over how much union labor the developer would use on the \$5 billion project. Lennar said the requirement to use 100% union labor would make the project economically infeasible and had threatened to withdraw if it was required to do so. Lennar (NYSE:LEN), which was selected for the project in 2016, negotiated for two years with the trades council without reaching an agreement.

The breakdown between Concord and Lennar throws the long-term future of the nearly 4-square-mile site into doubt. In addition to the 13,000 homes, Lennar's plan called for building about 6 million square feet of commercial space over the next two to three decades.

"We will look ahead to how we can get this project moving again once our community gets through the COVID-19 public health crisis and the city better understands the pandemic's impact to the regional economy and the city's finances," said Guy Bjerke, director of Community Reuse Planning, in a statement.

Lennar declined to comment.



**CONTRA COSTA CHAPTER**

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 (925) 372-3222  
[www.ccneca.org](http://www.ccneca.org)

*April 2020*

Sun                      Mon                      Tue                      Wed                      Thur                      Fri                      Sat

1                      2                      3                      4  
 Webinar 11:00 a.m.  
 Getting Started w/  
 Off-Site Construction

*Shelter-In-Place*

5                      6                      7                      8                      9                      10                      11  
 Webinar 11:00 a.m.  
 Stress Management &  
 Self-Care                      Webinar 11:00 a.m.  
 Control Plans, Risk  
 Assessments,  
 COVID19

*Shelter-In-Place*

12                      13                      14                      15                      16                      17                      18  
 Easter

*Shelter-In-Place*

19                      20                      21                      22                      23                      24                      25

*Shelter-In-Place*

26                      27                      28                      29                      30

***Until further notice:  
 All Chapter Level Meetings  
 postponed indefinitely.***

*Shelter-In-Place*