

Best Practices to Keep Your Project on Schedule: Milestones and Project Completion

A well-drafted, work schedule within your construction contract will help to ensure that your projects progress in a timely manner. The owner of the real property will generally want the project completed as soon as possible. The contractor will need to have a clear understanding of the project at hand in order to have its subcontractors meet the timing requirements. By necessity, the subcontractors must have some certainty as to the sequencing and duration in order to meet the demands of the schedule.

Perhaps the most important scheduling provision in a construction contract is a “*time is of the essence clause*.” This provision is paramount to enforcing strict compliance with the agreed upon schedule. In conjunction with this provision, it is common for there to be predetermined, liquidated damages assessed for each day the project continues past the intended completion date. In instances where this clause exists, it is advisable that the general contractor confer frequently with its subcontractors to verify their progress and to update them on any schedule modifications.

Another scheduling device you may include are interim milestones. These milestones serve two purposes: (1) they are a payment provision method; and (2) they are used to incentivize the contractor to expedite completion of specific portions of the contract. The obvious advantage to this provision is that the owner and contractor have created a tangible moment where the project’s completion rate can be measured. As seen with “*time if of the essence clauses*,” interim milestones may also include predetermined, liquidated damages which must be cleared defined.

Lastly, the parties should include provisions defining what constitutes “*substantial completion*” and “*final completion*.” These provisions are used to define another tangible moment where the project’s completion rate can be determined. More specifically, these provisions work in conjunction with lien waivers, identifying the punch list work, payment obligations, and, if applicable, the issuance of a Certificate of Occupancy. As you should expect, these milestones may also include predetermined, liquidated damages.

All of the scheduling provisions described above can be modified to be contractor-friendly or owner-friendly. As you can imagine based on the clauses from above, there can be significant consequences associated with the schedule of your construction project. The importance of clarity within your construction contract cannot be overstated. Before entering into a contract you should have it reviewed by an experienced attorney.

Zacharia S. Bonham is an attorney at JKY Legal Group, P.C., focusing primarily on Commercial Litigation, Construction Law, Employment Law, and Business Law. He can be contacted for any questions related to this article or other areas of law at zac@jkylegal.com or (517) 381-2663.

ATTORNEYS AT LAW

Christopher M. Kroll | Adil Daudi | Zacharia S. Bonham | Matthew S. Nowak | Michael Dalere
4121 Okemos Rd. Suite 10 | Okemos, Michigan 48864
Tel: (517) 381-2663 | Fax: (517) 381-9775
www.jkylegal.com