



April 21, 2020

Governor Jay Inslee
Office of the Governor
PO Box 40002
Olympia, WA 98504-0002

RE: ***AWC & WSAC position on restarting construction***

Dear Governor Inslee:

Cities and counties support reopening economic activities when they can be done safely and efficiently. We agree with the Governor's and the construction roundtable's stance on restarting in a way that minimizes risk to construction workers and the community at large. We appreciate the same consideration being extended to local government inspectors, as well. Local governments will do our best to ensure a smooth restart of this and other industries while fulfilling our broader mission to protect public health and safety during this public health crisis.

As you and the roundtable consider the various elements to the decision for this particular industry, we offer several critical points for consideration. These concepts reflect the various responsibilities of local governments – as project owners, as permitting and inspection authorities, and in fulfilling our duty to provide public health and safety services.

1. We support that the proposal provides for enforcement of the workplace standards by the Department of Labor & Industries. Please make that explicit in any order or proclamation that implements this proposal.
2. Local governments are facing severely declining revenues and workforce limitations with significant uncertainty about the future. Hard decisions are being made about layoffs, furloughs, and how to allocate resources to critical needs, including temporarily shifting certain employees to act as first responders during the COVID-19 crisis. Our ability to process permits and perform inspections may not be what it was previously. Flexibility and coordination among local governments, business, labor, and state government will be vital as we move forward.
3. Local governments are taking action to protect the health and safety of inspectors. We must continue to retain the flexibility to impose and enforce policies according to local conditions. Smaller jurisdictions may only have one inspector on staff, and if that person is in a high-risk category, they may have decided not to conduct certain inspections. Other jurisdictions have established new protocols such as inspections occurring with no other parties on site, postponing interior inspections, or cancelling inspections where social distancing is not

observed. Further, we request that any notice provided about known or potential COVID-19 exposure on the job site must be shared with the appropriate local government so we can make informed decisions about the safety of future inspections of that project. To facilitate exposure tracing activities, the daily rosters should also include contact information, such as a telephone number, for each named individual.

4. Considering the issues noted in item 3, we urge the Governor to enact affirmative protections so that local governments' discretionary decisions and actions will not result in causes of action against local governments as we work to fulfil our role in the construction permitting and inspection process. Local governments should be immune from liability if they deem processing construction-related permits unsafe or lack the resources to do so. We also ask that any order or proclamation indicate that local governments be immune from liability for processing such permits during a time of emergency.
5. We ask that any order or proclamation acknowledge the impact of the disruptions to our normal procedures and provide flexibility within existing statutorily mandated permit processing and inspection timelines.
6. As the draft proposal is finalized as an official proclamation, we have identified several ambiguities that should be clarified:
 - a. Our main concern is clarity about which projects will restart under the proposed Phase 1. Does a construction restart apply in the following examples?
 - i. Does "restart[ing] existing construction projects" apply to single and multifamily residential projects?
 - ii. Does this include projects in the permitting process where a permit has not been issued?
 - iii. To projects where a permit has been issued but there has been no groundbreaking?
 - iv. Or only to projects where construction was underway when the stay-at-home order was announced?
 - b. As others have noted, a clear definition of "low-risk construction activities" would be helpful.
 - c. Worker limits based by "site" should also be clarified. Is this a limit per lot in a subdivision for instance, or a limit for the whole subdivision? In addition to these priority areas, we would be happy to share a broader list if desired.

Again, cities and counties support the restart of the elements of our economy that can be done in a safe manner. We believe our requests will help facilitate that and look forward to discussing them further.

Sincerely,

Association of Washington Cities
Washington State Association of Counties

CC: Governor's Construction Roundtable