

Board Office Use: Legislative File Info.	
File ID Number	20-1043
Introduction Date	5/13/2020
Enactment Number	20-0670
Enactment Date	5/13/2020 lf



Memo

To Board of Education

From Joshua R. Daniels, General Counsel
Tadashi Nakadegawa, Acting Deputy Chief of Facilities Planning and Management

Board Meeting Date May 13, 2020

Subject Approval of Resolution No. 1920-0229 - Designating District Facility Projects to be Essential Business and Essential Governmental Functions

Action Approval by the Board of Education of Resolution No. 1920-0229 - Designating District Facility Projects to be Essential Business and Essential Governmental Functions

Background Under the prior shelter-in-place order issued by the Alameda County Public Health Officer, only facilities projects deemed to be “essential” by the District could proceed. On April 22, 2020, the Board approved Resolution No. 1920-0075 – Specifically Designating District Facility Projects to be Essential Business and Essential Governmental Functions, which ratified memoranda by General Counsel and adopted a resolution that deemed most—but not all—facilities projects to be Essential Business and Essential Governmental Functions.

The County of Alameda has since issued an updated shelter-in-place order, Order No. 20-10 (“Order”), effective May 4, 2020. This Order continues to direct all individuals living in the County to continue sheltering at their place of residence, except for Essential Activities, Essential Governmental Functions, Essential Travel, work for Essential Businesses, or performance of Minimum Basic Operations.

The Order continues to provide that “nothing in this Order shall prohibit any individual from performing or accessing ‘Essential Governmental Functions,’ as determined by the governmental entity performing those functions in the County. Each governmental entity shall identify and designate appropriate personnel, volunteers, or contractors to

continue providing and carrying out any Essential Governmental Functions, including the hiring or retention of new personnel or contractors to perform such functions. Each governmental entity and its contractors must employ all necessary emergency protective measures to prevent, mitigate, respond to, and recover from the COVID-19 pandemic, and all Essential Governmental Functions shall be performed in compliance with Social Distancing Requirements to the greatest extent feasible.”

The Order also continues to require that “[e]ach governmental entity and its contractors must employ all necessary emergency protective measures to prevent, mitigate, respond to, and recover from the COVID-19 pandemic, and all Essential Governmental Functions shall be performed in compliance with Social Distancing Requirements to the greatest extent feasible.”

However, unlike the prior order, the Order specifically defines “Essential Businesses” to include all construction projects, including facilities projects, but requires that all facilities projects (referred to as “public works projects” in the Order) comply with specific Construction Safety Protocols described in the Order.

Discussion

Resolution No. 1920-0229 - Designating District Facility Projects to be Essential Business and Essential Governmental Functions would replace Resolution No. 1920-0075 – Specifically Designating District Facility Projects to be Essential Business and Essential Governmental Functions and permit all District facilities projects to proceed so long as the Office of the General Counsel determines, in writing, that a project complies with all applicable State and County orders, particularly the Construction Safety Protocols for in the Order.

The Resolution does not expire and the Board can revisit or modify it at any time.

Fiscal Impact

N/A

Attachment

Resolution No. 1920-0229 - Designating District Facility Projects to be Essential Business and Essential Governmental Functions

**RESOLUTION OF THE GOVERNING BOARD
OF THE OAKLAND UNIFIED SCHOOL DISTRICT**

**DESIGNATING DISTRICT FACILITY PROJECTS TO BE ESSENTIAL BUSINESS AND ESSENTIAL
GOVERNMENTAL FUNCTIONS**

RESOLUTION 1920-0229

WHEREAS, California’s public health efforts to combat the spread of the novel coronavirus, also known as COVID-19, has forced the substantial disruption of daily life throughout Oakland, the Bay Area, the state, and the nation;

WHEREAS, the Alameda County Public Health Office has issued Order No. 20-10 (“Order”), effective May 4, 2020, directing all individuals living in the County to continue sheltering at their place of residence, except for Essential Activities, Essential Governmental Functions, Essential Travel, work for Essential Businesses, or performance of Minimum Basic Operations, all as defined in the Order;

WHEREAS, Section 16.f.v of the Order defines Essential Businesses as “Construction, but only as permitted under the State Shelter Order and only pursuant to the Construction Safety Protocols listed in Appendix B Public works projects shall also be subject to Appendix B, except if other protocols are specified by the Health Officer”;

WHEREAS, Appendix B-1 of the Order, which is applicable to public works projects, outlines the Small Construction Safety Protocols (“SCP Protocol”) that must be in place at construction job sites;

WHEREAS, Section 16.d of the Order provides that each governmental entity “identify and designate appropriate personnel, volunteers, or contractors to continue providing and carrying out any Essential Governmental Functions, including the hiring or retention of new personnel or contractors to perform such functions,” that “[e]ach governmental entity and its contractors . . . employ all necessary emergency protective measures to prevent, mitigate, respond to, and recover from the COVID-19 pandemic,” that “all Essential Governmental Functions . . . be performed in compliance with Social Distancing Requirements [described in the Order] to the greatest extent feasible,” and individuals may continue “performing ‘Essential Governmental Functions,’ as determined by the governmental agency performing those functions”;

WHEREAS, Section 16.f.v of the Order specifically defines “Essential Businesses” to include all construction projects, including facilities projects, but requires that all facilities projects (referred to as “Public Works projects” in the Order) comply with specific Construction Safety Protocols (“CSP”) described in the Order;

WHEREAS, Section 16.f.xiv of the Order also defines “Essential Businesses” to include “Education institutions – including public and private K-12 schools, . . . – for purposes of facilitating distance learning or performing essential functions”;

WHEREAS, the California Constitution contemplates education as a governmental function, with school districts as a public agency authorized to maintain schools within the Public School System;

WHEREAS, pursuant to state constitutional authority, the Legislature codified school districts as local educational agencies;

WHEREAS, the California Constitution underscores the importance of ongoing public education operations, stating, “[t]he Legislature shall provide for a system of common schools by which a free school shall be kept up and supported in each district at least six months in every year, after the first year in which a school has been established”;

WHEREAS, Governor Newsom’s Executive Order N-26-20 (“State Shelter Order”), issued on March 13, 2020, noted that “schools are critical to the daily lives of many Californians”;

WHEREAS, the Board of Education (“Board”) is the governing body of the Oakland Unified School District (“District”), which is a “governmental entity” as referenced in the Order;

WHEREAS, the Board approved Resolution No. 1920-0218, which delegated authority to “the Superintendent or her designee to take any and all actions necessary to ensure the continuation of public education, and the health and safety of the students and staff of OUSD”; and

WHEREAS, under in the prior shelter-in-place order, not all facilities projects were, by definition, “Essential Business”; and

WHEREAS, on April 22, 2020, the Board approved Resolution No. 1920-0075 – Specially Designating District Facility Projects To Be Essential Business And Essential Governmental Functions, which ratified the General Counsel’s memoranda and then declared that twelve (12) public works projects (“Projects”) constituted Essential Business (as public works projects) and Essential Governmental Functions, as those terms were defined under in the prior shelter-in-place order.

NOW, THEREFORE, BE IT RESOLVED, the Board hereby replaces Resolution 1920-0075 with this Resolution and directs the Superintendent or designee to ensure that all District facility projects comply with the Order, particularly the specific Construction Safety Protocols described therein;

BE IT FURTHER RESOLVED, the Board—as the governmental entity empowered by the Order—finds, determines, declares, and orders as follows:

- all District facilities projects, including but not limited to those projects listed below, constitute Essential Business (as public works projects) and Essential Governmental Functions, as those terms are defined in the Order,
- the District employees, contractors (and their employees), and consultants (and their employees) performing work or services on any District facilities project are performing work for Essential Business and performing Essential Governmental Functions, as those terms are defined in the Order,
- all District facilities projects continue with each project in compliance with the contracts awarded by the Board for that project,
- the District employees, contractors (and their employees), and consultants (and their employees) performing work on any District facilities project comply with all applicable State and County orders, particularly the Construction Safety Protocols; and

- the Office of the General Counsel shall develop a process to determine whether a District facilities project complies with all applicable State and County orders, particularly the Construction Safety Protocols, and that no project may proceed without a determination, made in writing, by the Office of the General Counsel that a project complies with all applicable State and County orders, particularly the Construction Safety Protocols;

BE IT FURTHER RESOLVED, this resolution applies to all current and future District facilities projects, including (but not limited to) the following:

<u>School Site and Address</u>	<u>Project Title and Description</u>
1. Acorn Woodland Elementary 1025 81st Avenue Oakland, CA 94621	Replacement of play matting on playground.
2. Brookfield Elementary School 401 Jones Avenue Oakland, CA 94603	Fire alarm replacement.
3. C. Chavez Education Center 2825 International Boulevard Oakland, CA 94601	Landscaping for living schoolyard project.
4. Central Kitchen 2850 West Street Oakland, CA 94608	New construction of Central Kitchen, Instructional Farm and Education Center, and instructional space for academic pathways.
5. Chabot Elementary School 6686 Chabot Road Oakland, CA 94618	Door entry system installation and camera system installation.
6. Claremont Middle School 5750 College Avenue Oakland, CA 94618	Design of new multi-purpose building, including kitchen, storage, and office space.
7. Cleveland Elementary School 745 Cleveland Street Oakland, CA 94606	Replacement of play matting on playground.
8. Cole Administration Center 1011 Union Street Oakland, CA 94607	New construction and rehabilitation construction to support the transition of District administrative offices from 1000 Broadway and various school site to one centralized location.
9. Coliseum College Prep Academy 1390 66th Avenue Oakland, CA 94621	Watershed project and landscaping.

- | | |
|---|---|
| <p>10. East Oakland Pride
 8000 Birch Street
 Oakland, CA 94621</p> | <p>Fire and intrusion alarm replacement. Replacement of play matting on playground.</p> |
| <p>11. Edna Brewer Middle School
 3748 13th Avenue
 Oakland, CA 94610</p> | <p>Fire alarm system replacement.</p> |
| <p>12. Elmhurst Middle School
 1800 98th Avenue
 Oakland, CA 94603</p> | <p>Sewer line replacement and boiler replacement.</p> |
| <p>13. Emerson Child Development Center
 4801 Lawton Avenue
 Oakland, CA 94609</p> | <p>Replacement of play matting on playground.</p> |
| <p>14. Emerson Elementary School
 4803 Lawton Avenue
 Oakland, CA 94609</p> | <p>Construction of a new Softball Field and replacement of play matting under existing play structure.</p> |
| <p>15. Esperanza Elementary School
 10315 E Street
 Oakland, CA 94603</p> | <p>Door entry system installation.</p> |
| <p>16. Franklin Elementary School
 915 Foothill Boulevard
 Oakland, CA 94606</p> | <p>Removal of old play matting, installation of new play matting, and installation of new play structure.</p> |
| <p>17. Fremont High School
 4610 Foothill Boulevard
 Oakland, CA 94601</p> | <p>School remodel includes demolition and new construction of a new academic building, soccer field, football field, instructional space to support academic pathways and renovation of Building B.</p> |
| <p>18. Frick Impact Academy
 2845 64th Avenue
 Oakland, CA 94605</p> | <p>New fence and modification to existing structures.</p> |
| <p>19. Fruitvale Elementary School
 3200 Boston Avenue
 Oakland, CA 94602</p> | <p>Fire alarm system replacement.</p> |
| <p>20. Glenview Elementary School
 4125 La Cresta Avenue
 Oakland, CA 94602</p> | <p>New classroom building replacing 21 classrooms, library, cafeteria, multi-purpose room, and administrative space.</p> |
| <p>21. Global Family
 2035 40th Avenue
 Oakland, CA 94601</p> | <p>Replacement of play matting on playground.</p> |

- | | |
|--|---|
| 22. Horace Mann Elementary School
5222 Ygnacio Avenue
Oakland, CA 94601 | Retaining wall replacement and replacement of play matting on playground. |
| 23. Howard Elementary School
8755 Fontaine Street
Oakland, CA 94605 | Replacement of play matting on playground. |
| 24. Joaquin Miller Elementary School
5525 Ascot Drive
Oakland, CA 94611 | Fire alarm system replacement. |
| 25. Lakeview Elementary School
746 Grand Avenue
Oakland, CA 94610 | Fire alarm panel replacement. |
| 26. Laurel Child Development Center
3825 California Street
Oakland, CA 94619 | Replacement of play matting on playground. |
| 27. Lincoln Elementary School
225 11 th Street
Oakland, CA 94607 | Remediation and repairs to address water intrusion damage. |
| 28. Madison Park Academy
400 Capistrano Drive
Oakland, CA 94063 | New construction of high school classrooms to support the grade span expansion of middle school to high school. Construction includes 14 new classrooms, 2 labs, and 6 offices. Installation and programming of new security cameras. |
| 29. Manzanita Seed Community School
2409 East 27 th Street
Oakland, CA 94601 | Replacement of play matting on playground. |
| 30. Markham Elementary School
7220 Krause Avenue
Oakland, CA 94605 | Landscaping for living schoolyard project. Removal of old play matting, installation of new play matting, and installation of a new play structure. |
| 31. Maxwell Park Elementary School
4730 Fleming Avenue
Oakland, CA 94619 | Landscaping for living schoolyard project. |
| 32. Melrose Leadership Academy
4730 Fleming Avenue
Oakland, CA 94619 | Boiler replacement. |
| 33. Oakland Technical High | Athletic field bleacher replacement. |

**4351 Broadway
Oakland, CA 94611**

- | | |
|---|--|
| 34. Ralph Bunche High School
1240 18th Street
Oakland, CA 95607 | Construction on kitchen and landscaping for the living schoolyard project. |
| 35. Roosevelt Middle School
1926 East 19th Street
Oakland, CA 94606 | Site work conducted by geotechnical engineers and assessment services that are required for modernization project. |
| 36. Sankofa Academy
581 61st Street
Oakland, CA 94609 | Boiler replacement and installation of mobile modular classrooms to support the Kaiser/Sankofa Merger. |
| 37. Santa Fe Child Development Center
915 54th Street
Oakland, CA 94608 | Fire alarm panel replacement. |
| 38. Sequoia Elementary School
3730 Lincoln Avenue
Oakland, CA 94602 | Replacement of play matting on playground. |
| 39. Skyline High School
12250 Skyline Boulevard
Oakland, CA 94619 | Athletic field bleacher replacement. |
| 40. Street Academy
417 29th Street
Oakland, CA 94609 | Landscaping for living schoolyard project. |
| 41. Former Sherman Elementary
5328 Brann St
Oakland, CA 94619 | Storm drain replacement and sewer line replacement at site known as Former Sherman Elementary School and current home to District authorized charter school. |
| 42. Berkley Maynard Academy
6200 San Pablo Avenue
Oakland, CA 94608 | Rehabilitation and new construction on District property through Proposition 51. This project has a scope of work that includes new construction, new roofing, ADA compliant facilities upgrades, and various technology upgrades for HVAC controls. |
| 43. Lighthouse Lodestar
701 105th Avenue
Oakland, CA 94603 | New construction on private property of District-authorized charter school. This project has a scope of work that includes new construction of classrooms and instructional space. |

44. Various Sites

Security improvements and security camera replacements.

BE IT FURTHER RESOLVED, the Board finds, determines, declares, and orders that timely completion of each District facilities project (including design services, site and construction preparation and mobilization, and construction for the project) is also essential for the following non-exclusive list of reasons:

- to ensure the District’s educational programs in provided in safe, accessible, and structurally sound facilities, and to support student health and safety,
- to ensure needed facilities and infrastructure for the District as it continues to provide education to its students during the COVID-19 crisis,
- to provide needed facilities and infrastructure for those students when the District is able to resume normal operations following the COVID-19 crisis and the cessation of State and County orders directing shelter-in-place,
- to ensure that the District is able to remain within its budget for the Projects and avoid increased costs to the public, and
- to preserve of the rights and liberties of the staff, students, and families of the District under the California Constitution; and

BE IT FURTHER RESOLVED, the Board finds, determines, declares, and orders this Resolution replaces Resolution No. 1920-0075 – Specially Designating District Facility Projects To Be Essential Business And Essential Governmental Functions.

Passed by the following vote:

PREFERENTIAL AYE: None

PREFERENTIAL NOE: None

PREFERENTIAL ABSTENTION: None

PREFERENTIAL RECUSE: None

AYES: Aimee Eng, Jumoke Hinton Hodge, Gary Yee, Roseann Torres, James Harris, Vice President Shanathi Gonzales and President Jody London

NOES: None

ABSTAINED: None

RECUSE: None

ABSENT: Student Directors Mica Smith-Dahl and Denilson Garibo

CERTIFICATION

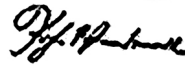
We hereby certify that the foregoing is a full, true and correct copy of a Resolution passed at a Regular Meeting of the Board of Education of the Oakland Unified School District held on May 13, 2020.

Legislative File	
File ID Number:	20-1043
Introduction Date:	05/13/2020
Enactment Number:	20-0670
Enactment Date:	5/13/2020
By:	lf

OAKLAND UNIFIED SCHOOL DISTRICT



Jody London
President, Board of Education



Kyla Johnson-Trammell
Superintendent and Secretary, Board of Education