

**MODESTO CITY SCHOOLS**

**Resolution No. 19/20-17**

**IN THE MATTER OF:** RESOLUTION DELEGATING AUTHORITY TO TAKE NECESSARY ACTION TO PROTECT STUDENTS AND STAFF FROM THE SPREAD OF CORONAVIRUS (COVID-19).

The following RESOLUTION was duly passed by the Board of Trustees, at a meeting held on March 18, 2020, by the following roll call vote:

Cindy Marks	_____
Dr. Charlene West	_____
Chad Brown	_____
John Ervin, III	_____
Adolfo Lopez	_____
Amy Elliott Neumann	_____
John Walker	_____

Signed and approved by me after its passage:

\_\_\_\_\_  
Cindy Marks, President

Attest:

\_\_\_\_\_  
Clerk

\_\_\_\_\_  
**WHEREAS**, on March 4, 2020, Governor Gavin Newsom declared a statewide emergency arising from the coronavirus (COVID-19).

**WHEREAS**, on March 13, 2020, the President of the United States declared a State of Emergency due to the outbreak and spread of a coronavirus (COVID-19).

**WHEREAS**, Article I, Section 28, of the California Constitution declares that “[a]ll students and staff of public, primary, elementary, junior high, and senior high school . . . have the inalienable right to attend campuses which are safe, secure and peaceful.”

**WHEREAS**, Section 1102 of the Public Contract Code defines “emergency” to mean a “sudden, unexpected occurrence that poses a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services,” and section 21060.3 of the Public Resources Code and California Environmental Quality Act Guidelines 14 CCR section 15269(c) defines “emergency” to mean “a sudden, unexpected occurrence, involving a clear and imminent danger, demanding immediate action to prevent or mitigate loss of, or damage to life, health, property, or essential public services.

**WHEREAS**, under California Public Contract Code Section 20113, in an emergency when any repairs, alterations, work, or improvement is necessary to any facility of public schools to

permit the continuance of existing school classes, or to avoid danger to life or property, the board may, by unanimous vote, with the approval of the county superintendent of schools, do the following: make a contract in writing or otherwise on behalf of the district for the performance of labor and furnishing of materials or supplies for the purpose without advertising for or inviting bid; and, notwithstanding section 20114.

**WHEREAS**, Education Code section 35161 permits the Board to delegate to an officer or employee of the District any of the Board's powers and duties, and the Board desires to delegate to the District Superintendent certain powers and duties to address the Coronavirus (COVID-19) pandemic.

**WHEREAS**, Education Code section 17604 authorizes the Board, by a majority vote, to delegate to the District's Superintendent, or to such persons as the Superintendent may designate, the authority to enter into contracts subject to the provision that "no contract made pursuant to the delegation and authorization shall be valid or constitute an enforceable obligation against the district unless and until the same shall have been approved or ratified by the governing board, the approval or ratification to be evidenced by a motion of the board duly passed and adopted."

**NOW THEREFORE, BE IT RESOLVED AND ORDERED** that the Board hereby declares the existence of an ongoing public health emergency within the District arising from the coronavirus (COVID-19) pandemic ("Emergency Conditions").

**BE IT FURTHER RESOLVED AND ORDERED** the Superintendent is delegated authority to take all appropriate action to respond to the coronavirus (Covid-19) pandemic, including, but not limited to, any action:

- A. To ensure and protect the welfare, safety and educational wellbeing of all students including the temporary closure of all District schools from Thursday, March 19, 2020, until the Superintendent makes a determination in consultation with the Board President and/or the Vice President.
- B. To ensure and protect the welfare and safety of persons working for the District which shall include its agents, employees, representatives and all others acting for or on behalf of the District;
- C. To explore and when possible provide necessary staffing and instruction, including but not limited to the relocation of students and staff, continued daily student transportation, continued food service programs, provision of alternative educational program options, including distance learning.
- D. To modify school and work schedules, including granting leaves of absence with pay to employees due to quarantine or recently returning from level 3 countries or sick from COVID-19 or illnesses with similar symptoms (cough, fever, shortness of breath) or co-habitants of any individuals without any impact to their benefit time pursuant to Education Code sections 44964 and 45199.
- E. To declare an emergency pursuant to Government Code § 3100 et seq., and to assign District employees (in their capacity as disaster service workers) to perform such disaster service activities as may be assigned to them;

F. To cancel or modify any activities, programs, or courses, up to and including the closure of the District.

G. To protect District property.

H. To make further declarations of emergency and to take emergency action as permitted by law.

I. To address the Emergency Conditions described within this Resolution by:

a. Executing non-public works contracts of any amount without bidding related, but not limited, to technology as may be necessary to address Emergency Conditions, subject to Board review and ratification within sixty (60) days of entering into the contract. No contract made pursuant to this delegation and authorization shall be valid or constitute an enforceable obligation against the District unless and until the contract is approved or ratified by the Board, evidenced by a motion of the Board duly passed and adopted.

b. Executing public works contracts of any amount without bidding related, but not limited, to technology as may be necessary to address the Emergency Conditions subject to Board review and ratification within sixty (60) days of entering into the contract. No contract made pursuant to this delegation and authorization shall be valid or constitute an enforceable obligation against the District unless and until the contract is approved or ratified by the Board, evidenced by a motion of the Board duly passed and adopted.

J. The Superintendent or his designee are further authorized pursuant to this Resolution to take any action and execute any documents that are necessary to carry out, give effect to, and comply with the terms and intent of this Resolution.

**BE IT FURTHER RESOLVED AND ORDERED** that should any portion of this Resolution be held invalid, the invalidity shall not affect other provisions or applications of the Resolution which can be given effect without the invalid provisions or application, and to this end the provisions of this Resolution are declared to be severable.

**BE IT FURTHER RESOLVED AND ORDERED** that this Resolution is an emergency measure within the mandate and jurisdiction of the Board and is necessary for the immediate welfare of the schools and pupils thereof. Therefore, this Resolution shall become effective immediately upon its adoption and shall remain in effect until repealed by formal Board action.