

RESOLUTION NO. 23/19-20

RESOLUTION OF THE GOVERNING BOARD OF THE SAN MATEO-FOSTER CITY SCHOOL DISTRICT SPECIFICALLY DESIGNATING PUBLIC WORKS PROJECT(S) AS ESSENTIAL GOVERNMENTAL FUNCTIONS

WHEREAS, on March 31, 2020, the County of San Mateo ("County") issued Order No. c19-5b ("Order"), directing all individuals living in the County to continue sheltering at their place of residence, except as provided in the Order;

WHEREAS, section 2 of the Order states that the intent of the Order is "to ensure that the maximum number of people shelter in their places of residence to the maximum extent feasible to slow the spread of COVID-19 and mitigate the impact on delivery of critical healthcare services to those in need;"

WHEREAS, section 13.d of the Order contains an exemption for Essential Governmental Functions, which provides, among other things, 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";

WHEREAS, section 13.f of the Order contains an exemption for "Essential Businesses," which includes, among other things, specific types of construction, including "[p]ublic works projects if specifically designated as an Essential Governmental Function by the lead governmental agency;"

WHEREAS, section 13.f 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 espouses the essential nature of education, stating, "A general diffusion of knowledge and intelligence being essential to the preservation of the rights and liberties of the people, the Legislature shall encourage by all suitable means the promotion of intellectual, scientific, moral, and agricultural improvement." (Cal. Const. Art IX, § 1.);

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, inclusive of kindergarten schools, elementary schools, and secondary schools (Cal. Const., art. IX, §§ 6, 14);

WHEREAS, pursuant to state constitutional authority, the Legislature codified school districts as local educational agencies (Educational Code, §§ 35010 et seq.);

WHEREAS, the California Constitution underscores the import of ongoing public education operations, stating, "The 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." (Cal. Const., Art. IX, § 5.);

WHEREAS, the Education Code provides for school districts to be under the control of a board of trustees or a board of education (Ed. Code, § 35010);

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

WHEREAS, the Order acknowledges educational institutions, including public k-12 schools, colleges, and universities perform “essential functions” (Order, section 13.f.xv.);

WHEREAS, San Mateo-Foster City School District (“District”) is the lead governing agency of the following public works project(s) at the following location(s):

<u>Project Title:</u>	<u>Site Address:</u>
New Elementary School Foster City	
Borel Middle School Classrooms and Gymnasium	
Abbott Middle School Classrooms and Gymnasium	
Bayside Middle School Gymnasium	

WHEREAS, among other day-to-day and instructional Essential Governmental Function performed by the District, the above-listed Project(s) is/are also an Essential Governmental Function of the District including, but not limited to, the following reasons:

- a. Education, including public education, is essential to the preservation of the rights and liberties of the people (Cal. Const. Art IX, §§ 1, 5, 6, 14.);
- b. The District is authorized by the State Constitution and Legislature as a governmental agency whose purpose and mission includes provision of public education, an essential function (*Id.*, see *also* Education Code §§ 35010 *et seq.*);
- c. Timely completion of the Project(s) is required to ensure continued operations, including provision of the District’s educational program, without impact to students; and,
- d. Timely completion of the Project(s) is required for the provision of the District’s educational programs in safe, accessible, and structurally sound facilities, and to support student health and safety; and

WHEREAS, as Essential Governmental Functions, the Project(s) may continue in compliance with the Order including, without limitation, compliance with Social Distancing Requirements to the greatest extent feasible.

NOW, THEREFORE, the Governing Board of the San Mateo-Foster City School District hereby finds, determines, declares, orders, and resolves as follows:

1. The foregoing recitals are true.
2. The Governing Board acknowledges that facilitation of distance learning and performance of other essential functions are considered an “Essential Business” function for purposes of the Order and that its employees and contractors engaged in such efforts should continue providing and carrying out work as an Essential Governmental Function.

- 3.** The Governing Board specifically designates the foregoing Project(s) as Essential Governmental Functions.
- 4.** The Governing Board determines that the employees and contractors engaged in work on the Projects should continue providing and carrying out work as an Essential Governmental Function.
- 5.** The District's Superintendent, or designee, is authorized to take all steps and perform all actions necessary to carry out, give effect to, and comply with the terms and intent of this Resolution.
- 6.** To the extent actions in Section 4 have been undertaken, the Governing Board hereby ratifies such actions as an Essential Governmental Function.

PASSED AND ADOPTED this 2nd day of April, 2020, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

San Mateo-Foster City School District

Attested to:

Clerk, Governing Board
San Mateo-Foster City School District