

**BEFORE THE GOVERNING BOARD OF THE  
BERKELEY UNIFIED SCHOOL DISTRICT**

**RESOLUTION DESIGNATING CERTAIN DISTRICT CONSTRUCTION PROJECTS  
AS AN ESSENTIAL GOVERNMENTAL FUNCTION AND DELEGATING  
AUTHORITY FOR THE SUPERINTENDENT OR HIS DESIGNEE TO MAKE  
SUCH DETERMINATIONS ON SUCH CONSTRUCTION PROJECTS  
AS ARE NECESSARY TO COMPLY WITH STATE AND LOCAL  
HEALTH & SAFETY ORDERS ISSUED IN RESPONSE TO COVID-19**

**RESOLUTION NO. 20-045**

**WHEREAS**, the Health Officer of the Alameda County Department of Health Services (“County Health Officer”) issued a “shelter in place” Order on March 16, 2020 (“Initial Order”) pursuant to the authority under California Health & Safety Code Sections 101040, 101085, and 120175; and

**WHEREAS**, the State Health Officer (“State Health Officer,” collectively with the County Health Officer, the “Health Officers”) issued a “shelter in place” Order, designated N-33-20, on March 19, 2020 (“Statewide Order”), which has been revised several times since its issuance, pursuant to the authority granted the Governor under Government Code sections 8567, 8627, and 8665, and to the State Health Officer under Health & Safety Code 120125, 120140, 131080, 1201 30(c), 120135, 120145, 1201 75 and 120150; and

**WHEREAS**, the Health Officer of the Alameda County Department of Health Services issued a “shelter in place” Order 20-04 on March 31, 2020 (“Current Order”) pursuant to the authority under California Health & Safety Code Sections 101040, 101085, and 120175, superseding the March 16<sup>th</sup> Order; and

**WHEREAS**, under the Current Order, public works construction projects may continue only if they meet certain requirements specified therein; and

**WHEREAS**, one such requirement is that the lead governmental agency determine that such public works projects are an “essential governmental function”; and

**WHEREAS**, the Berkeley Unified School District (“District”) is the lead governmental agency for all District construction projects; and

**WHEREAS**, the District has separately analyzed each of its current and upcoming construction projects and has determined that the following projects are “essential governmental functions” for the reasons set forth hereinafter and as such, these projects may continue to be constructed unless and until such other contrary Orders may be adopted in the future (hereinafter “Essential Projects”):

<b>Project</b>	<b>Location</b>	<b>Essential / Non-Essential</b>	<b>Rationale</b>
West Campus increment 1	1222 University Ave	Essential	West Campus changed from a "capacity project" to a essential project in November when the Governing Board learned about the elevated risk associated with the Oxford location as explained in the landslide deformation report. This project is being built-out to house the Oxford community for the new school year beginning in August of 2020
West Campus increment 2	1222 University Ave	Essential	Increment 2 is part of the first project was split into separate increments due to a different approval process by the Division of the State Architect (DSA). This phase of the project deals specifically with the auditorium, lobby, restrooms and accessible entry. This part of the facility is essential to the planned use of this campus as well as the impending construction for the Berkeley Community Theater which is scheduled to break ground in June of 2020.
CTE Dust Collection System	Berkeley High School, G-Building	Essential	This project is to correct design and performance deficiencies of the original systems installed in the BHS CTE Facility. These deficiencies have created a potentially hazardous air quality situation which has caused the program to be temporarily suspended. This work consists of the replacement of a dust collection system, installation of sound attenuation blankets, and correction to ductwork.
Student and Staff Safety Project Group 2	District Wide	Essential	This project is to install safety "columbine" locks on classroom and office doors to protect students and staff in the event of a lockdown..
Malcolm X Basement Repairs	Malcolm X	Essential - Monitoring Only	Project was closed out several years ago. Active monitoring during the rains to document problem with waterproofing to activate warranty repairs to be done at a later date.
Prop. 39 Lighting Upgrade	District Wide	Essential	Final phase of construction to be followed by the closeout phase. Once construction is completed (May 2020) the closeout phase can all be done remotely and must be completed by June 2020 per the grant agreement for funding under Prop. 39 from the California Energy Commission (CEC).
ADA and Portable Project	Rosa Parks	Essential	The Contractor has installed the portable and they are currently occupied, however there is essential ADA corrective work that is taking place within campus restrooms in order for certain restrooms to be ADA compliant. The ADA standards were not met during original construction and these

			corrections must be made as a stipulation of the roofing project at Rosa Parks per DSA. This corrective work will need to be performed before school resumes in Fall 2020.
Rosa Parks - Structural Modification Project	Rosa Parks	Essential	This project consists of correcting structural deficiencies and replacing the roof of the multipurpose building that must be torn off to do so. The contractor is in the beginning stages of demolition while concurrently performing corrective and structural upgrades to the roof and ceiling joist. Portions of the roof have been demolished, and exposed areas are being covered with temporary roofing material. Due to the scope of work, access to and use of the MPR is closed until all repairs are completed. Repairs are scheduled to be completed with the reopening of this facility for the new School year beginning in August of 2020.
Cafe Modernization	Cragmont	Essential	Project has been delayed by nearly a year due to DSA backlog and community concerns about demolition during the school year. Construction is scheduled to begin in June of 2020 when school is out so all hazardous material abatement and demolition can be completed while school is not in session.
Cafe Modernization	John Muir	Essential	Project has been delayed by nearly a year due to DSA backlog and community concerns about demolition during the school year. Construction is scheduled to begin in June of 2020 when school is out so all hazardous material abatement and demolition can be completed while school is not in session.
Parking Lot Upgrades	West Campus Parking lot	Essential	Project is designed to ensure maximum parking for staff at West Campus and the Central office. The timing of this project coincides directly with the opening of Oxford @ West Campus in August of 2020.
Sylvia Mendez Roofing Project	Sylvia Mendez	Essential	This project has been delayed by over a year due to several variables which include labor issues with the contractor and supply issues. The Labor issues have been resolved without legal action. At this point the project is waiting on delivery and final installation of skylights only. It is unknown when these materials will ship from the manufacturer. Project deemed as essential due to the need for ongoing protection as needed due to inclement weather and the need to finalize the install once the materials are shipped to avoid further labor issues and the potential need for legal action.

Student and Staff Safety Project Group 4	Berkeley Adult School	Essential	This project is to install safety "columbine" locks on classroom and office doors to protect students and staff in the event of a lockdown.
Student and Staff Safety Project Group 3	Berkeley High School	Essential	This project is to install safety "columbine" locks on classroom and office doors to protect students and staff in the event of a lockdown.
Electrical Infrastructure Upgrades	Transportation Yard	Essential	The District is waiting for delivery of eight electric school busses. The busses can not be delivered until the charging stations are installed and ready for use. Furthermore, PG&E and the Bay Area Air Quality Management District are providing financial credits with the installation of these charging stations. There is a time period for these to be delivered or else the credits will expire. No extension has been issued by these entities to date.
Community Theater Modernization	Berkeley High School	Essential	Delaying the start of construction will prolong the BCT project which is scheduled to last 2 years with the completion for the start of the school in August 2022.
Portables/Temp Housing	Berkeley High School	Essential	The portables are being installed as temporary housing for all the classes inside the Berkeley Community Theater (BCT). If these portables are not installed before the contractor is ready to mobilize and perform work on the BCT project, this will delay the start of construction. Delaying the start of construction will prolong the BCT project which is scheduled to reopen for the start of the school in August 2022.
Cafe Street Crossing	Longfellow Middle school	Essential	This project is scheduled to break ground in June and be completed by August. This project was designed to protect students and staff from traffic between the main campus and the cafe located across Ward Street.
Rosa Parks increment 2 - Elliptical Canopy	Rosa Parks	Essential	This project is to correct structural deficiencies of the elliptical canopy at Rosa Parks from the original construction. This work is scheduled for summer to ensure safety of students and staff during construction. The scope of this project would create potential safety concerns and certain interruption to teaching and learning if conducted during the school year.
VAPA @ West Campus	West Campus Parking lot	Non-Essential	Punch list items only for correction to close out the contract. These items can be delayed.
Legacy Closeout Project	Willard Middle School	Non-Essential - Work will continue remotely	This project is to close out the "legacy" issues with the modernization project of Willard Middle School. This project was not properly closed out with DSA. The remote work that can continue is all paper based with an occasional site visit and

			inspection. Minor changes requiring construction will not be scheduled for 6-9 months.
Prop. 39 Mechanical/Pool	District Wide	Non-Essential - Work will continue remotely	Closeout phase. This can all be done remotely and must be completed by June 2020 per the grant agreement for funding under Prop. 39
King Auditorium	King Middle School	Non-Essential - Work will continue remotely	Closeout phase. This can all be done remotely

**WHEREAS**, the District requires compliance by all contractors, vendors, district staff and consultants working on Essential Projects to comply with all social distancing guidelines, protocols and health and safety practices outlined in all applicable Orders and in local, state and federal laws and regulations pertaining to COVID-19 (in addition to non-COVID-19 safety rules and regulations); and

**WHEREAS**, in order to facilitate the most expeditious means of compliance with future Orders, rules and regulations, as such are modified and changed over the coming months, the Board of Education deems it to be in the best interests of the District to delegate certain powers, including authority to enter into certain contracts and to make certain determinations as to Essential Projects, to the Superintendent or such other officers and/or employees of the District as he may deem and identify as his designees for this purpose; and

**NOW, THEREFORE, BE IT RESOLVED** that:

1. That the above recitals are true and correct.
2. That the Board determines the following construction projects are “essential governmental functions” under the Current Order:

(Insert project list)

3. The Board hereby delegates authority to enter into certain contracts and to make certain determinations as to Essential Projects, to the Superintendent or such other officers and/or employees of the District as he may deem and identify as his designees for this purpose, until such time as the Board may by further action, rescind or modify such delegation.
4. The Board hereby directs staff to notify all employees and contractors that they must employ all necessary emergency protective measures to prevent, mitigate, respond to and recover from the COVID-19 pandemic identified in the Current Order and any Future Order(s), including without limitation Social Distancing Requirements, relevant guidance from the California and Federal Organizational Safety and Health Administrations, and all other measures promulgated by any competent governmental agency, including,

without limitation, the United States Centers for Disease Control and Prevention, to the greatest extent feasible.

5. That the Governing Board delegates to the Superintendent, and/or his designee(s), authority to take all administrative actions and execute all other documents reasonably necessary to carry out the intent of this Resolution.

APPROVED, PASSED AND ADOPTED by the Governing Board of the Berkeley Unified School District this 15th day of April, 2020, by the following vote:

AYES: \_\_\_\_\_

NOES: \_\_\_\_\_

ABSENT: \_\_\_\_\_

ABSTAINED: \_\_\_\_\_

I, Judy Appel, President of the Governing Board of the Berkeley Unified School District, do hereby certify that the foregoing is full, true, and correct copy of the Resolution passed and adopted by said Board at a specially scheduled and conducted meeting held on said date, which Resolution is on file in office of said Board.

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President of the Board of Education  
Berkeley Unified School District

I, Ka'Dijah Brown, Clerk of the Governing Board of the Berkeley Unified School District, do hereby certify that the foregoing Resolution was regularly introduced and adopted by the Governing Board at a special meeting thereof held on the 15th day of April, 2020, by the above described vote of the Governing Board;

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the Berkeley Unified School District Governing Board this 15th day of April, 2020.

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Clerk of the Board of Education  
Berkeley Unified School District