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COVID-19 Advisory



Impact of COVID-19 on School & College Construction Projects

April 1, 2020

New COVID-19 Shelter in Place Orders Affect School and College Construction Projects

As of 11:59 p.m. on March 31, 2020, new shelter in place orders based on the COVID-19 pandemic went into effect, superseding the prior orders dated March 16, 2020, in six Bay Area counties (Alameda, Contra Costa, Marin, Santa Clara, San Francisco, and San Mateo) and the City of Berkeley. These new orders extend the shelter in place requirements until 11:59 p.m. on May 3, 2020, and narrow the exception for public works construction from the prior orders, including California's statewide order issued on March 19, 2020. Under the new shelter in place orders, most construction work is now prohibited. As of the time of this publication, we are aware that other counties have begun to adopt similar orders, so all Districts throughout the State should be aware of these requirements.

School districts and community college districts in affected areas may still have the opportunity to continue certain public works construction projects during the shelter in place restrictions. Exceptions are made for public works projects that are "Essential Businesses." Under most of the new shelter in place orders, a public works project is Essential Business "if specifically designated as an Essential Governmental Function by the lead governmental agency." In San Francisco only, this designation can only be made by the City Administrator in consultation with the Health Officer. The orders do not specifically define "Essential Governmental Functions" or "lead governmental agency." Generally, the "governmental entity performing those functions in the County" makes the determination. The new orders acknowledge, however, that educational institutions, including public K-12 schools, colleges, and universities, perform "essential functions."

To continue work on projects outside the City and County of San Francisco, the governing boards for affected districts, acting as the lead government agency, need to determine whether their public works projects are necessary for their Essential Governmental Functions and designate (or ratify the designation of) those projects as an Essential Governmental Function. If the projects continue to go forward, all government entities, employees, and contractors must "employ all necessary emergency protective measures to prevent, mitigate, respond to and recover from the COVID-19 pandemic" and also act "in compliance with Social Distancing Requirements to the greatest extent feasible."

For projects that go forward, Districts will also need to ensure that contractors prepare, post, and implement a Social Distancing Protocol in compliance with Appendix A to the new shelter in place orders, including posting signage and taking measures to protect employee health, prevent crowds from gathering, keep people six feet apart, prevent unnecessary contact, and increase sanitization, **by 11:59 p.m. on April 2, 2020**. Districts do not need to approve the measures taken by contractors, but should **request documentation from each contractor demonstrating how they are complying with this portion of the Orders**. The contractor's obligation is in addition to the District's own compliance with preparation, posting, and implementation of Social Distancing Protocols for other Essential Business conducted by the District.

The government measures to combat the spread of COVID-19 continue to present a rapidly developing situation. State, county, or city officials may provide additional guidance that impact the interpretation or implementation of existing orders.

If you need more information about how to manage the impact of shelter in place orders or social distance requirements on your construction projects, please contact an attorney in our Construction practice group. For more information regarding the impact of COVID-19 on your district's operations, please visit our COVID-19 Resources page at <https://www.dwkesq.com/covid-19-resources-page/>.

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