



MEMORANDUM

Date: March 31, 2020

To: Chuck Poss, SCCA Legislative Committee Chair
SCCA Legislative Committee

From: Todd Bloomstine, Bloomstine & Bloomstine LLC

Regarding: California COVID-19 Emergency Memo #11

We're seeing several Bay Area counties further restrict construction. This is likely due to several press reports showing construction crews not abiding by the physical distance rules.

I share the new Bay Area order and the press reports below.

Please ensure your company has implemented an exposure prevention plan and that it is being complied with. You can find [a sample one by clicking this link](#). The construction industry will be closed down if it is merely perceived that it is not following orders designed to slow the spread of COVID-19.

COVID-19 STATISTICS

The figures listed below are current as of 2:00 pm on Tuesday, March 31 according to the *Los Angeles Times*. The site can be viewed [by clicking here](#).

COVID-19 CASES			
<u>Entity</u>	<u>Confirmed Cases</u>	<u>Deaths</u>	<u>Population</u>
California	7,593	158	40 million
United States	161,807	2,978	350 million
World	782,365	37,582	7.7 billion

UPDATE ON LOCAL GOVERNMENT ACTIVITIES

[Bay Area Counties Restrict Construction](#) — March 31, 2020. Several Bay Area counties have further restricted construction activities. It is expected that the Counties of Alameda, Contra Costa, Marin, Santa

Clara, San Francisco, San Mateo and the City of Berkeley will adopt identical orders, if they have not already. Here's the pertinent language of the order (you can download it by clicking the link at the beginning of this paragraph):

v. Construction, but only of the types listed in this subparagraph below:

- 1. Projects immediately necessary to the maintenance, operation, or repair of Essential Infrastructure;*
- 2. Projects associated with Healthcare Operations, including creating or expanding Healthcare Operations, provided that such construction is directly related to the COVID-19 response;*
- 3. Affordable housing that is or will be income-restricted, including multi-unit or mixed-use developments containing at least 10% income-restricted units;*
- 4. Public works projects if specifically designated as an Essential Governmental Function by the City Administrator in consultation with the Health Officer;*
- 5. Shelters and temporary housing, but not including hotels or motels;*
- 6. Projects immediately necessary to provide critical non-commercial services to individuals experiencing homelessness, elderly persons, persons who are economically disadvantaged, and persons with special needs;*
- 7. Construction necessary to ensure that existing construction sites that must be shut down under this Order are left in a safe and secure manner, but only to the extent necessary to do so; and*
- 8. Construction or repair necessary to ensure that residences and buildings containing Essential Businesses are safe, sanitary, or habitable to the extent such construction or repair cannot reasonably be delayed;*

"Essential Infrastructure" is described in Paragraph (c) to read:

c. For the purposes of this Order, individuals may leave their residence to provide any services or perform any work necessary to the operation and maintenance of "Essential Infrastructure," including airports, utilities (including water, sewer, gas, and electrical), oil refining, roads and highways, public transportation, solid waste facilities (including collection, removal, disposal, and processing facilities), cemeteries, mortuaries, crematoriums, and telecommunications systems (including the provision of essential global, national, and local infrastructure for internet, computing services, business infrastructure, communications, and web-based services).

While I am not a lawyer, it does seem that most public works construction would be included in the "essential infrastructure" definition. Missing from the list appears to be residential construction.

SCCA AND SCCA MEMBER, OTHER RESOURCES

[Bay Area News Report Says Only Construction should be for Hospitals](#) — March 30, 2020. KTVU from the Bay Area ran a report that shows precautions against the spread of COVID-19 are not being followed.

[The Washington Post Reports on Residential Construction in the Bay Area](#) — March 28, 2020. A report from the Washington Post shows construction workers not taking precautions against the spread of COVID-19 for high-end residential improvements in the Bay Area.