WHEREAS in December 2019, an outbreak of respiratory illness due to a novel coronavirus (a disease now known as COVID-19), was first identified in Wuhan City, Hubei Province, China, and has spread outside of China, impacting more than 117 countries and regions, including the United States; and

WHEREAS on January 23, 2020, the Centers for Disease Control activated its Emergency Response System to provide ongoing support for the response to COVID-19 across the country; and

WHEREAS on January 24, 2020, the California Department of Public Health activated its Medical and Health Coordination Center and on March 2, 2020, the Office of Emergency Services activated the State Operations Center to support and guide state and local actions to preserve public health; and

WHEREAS on March 4, 2020, the Governor of California declared a State of Emergency due to the outbreak and spread of COVID-19; and

WHEREAS on March 11, 2020, the World Health Organization declared COVID-19 to be a worldwide pandemic; and

WHEREAS on March 11, 2020, the Governor of California called for the cancellation of gatherings of more than 250 people to slow the spread of COVID-19; and

WHEREAS on March 12, 2020, the Governor of California issued Executive Order No. 25-20, waiving certain statutory requirements of state and local agencies including waiving certain requirements of the Brown Act related to teleconferencing while social distancing measures are in effect; and

WHEREAS on March 13, 2020, the President of the United States declared a National Emergency to open access to financial aid for states, territories, and localities, he directed the opening of emergency response centers in every state, asked every hospital in the country to initiate their emergency preparedness plans, and provided the Secretary of the U.S. Department of Health and Human Services the authority to waive certain rules and requirements; and
WHEREAS as of March 13, 2020, the President of the United States has restricted travel to and from certain countries around the world because of COVID-19; and

WHEREAS as of March 13, 2020, institutions of higher education across California and the United States have been taking measure to slow the spread of COVID-19 by cancelling classes and transitioning classes to alternative formats, among other measures; and

WHEREAS as of March 13, 2020, the COVID-19 pandemic is a dynamic situation that is changing by the minute with varying current and future impacts on local, state, national, and global communities and governments that include public health emergencies, restrictions on movement, and anticipated economic setbacks; and

WHEREAS under the California Emergency Services Act and specifically Government Code section 8642, whenever a state of emergency is declared, the governing body of a political subdivision shall meet as soon as possible and among other things shall proceed to perform its functions in the preservation of law and order and in the furnishing of local services as required by Government Code section 8643; and

WHEREAS guidance provided to institutions of higher education throughout California and the United States considers the temporary transition of courses, instruction, and other operations to an online and/or telecommuting environment to be an effective measure against the threat of COVID-19; and, in accordance with such guidance, various institutions of higher education, including community colleges within the Kern Community College District and elsewhere in California, have or are planning to temporarily transition courses, instruction, and other operations to an online and/or telecommuting environment; and

WHEREAS strict compliance with various statutes, regulations and contractual agreements could prevent, hinder or delay appropriate actions on the part of the Kern Community College District to prevent and mitigate the effects of COVID-19, and to continue to provide educational opportunities to students; and

WHEREAS it is imperative for the Kern Community College District to prepare for and implement measures to respond to the threat and potential spread of COVID-19; and

WHEREAS it is imperative that the Chancellor have the tools necessary to ensure the health and safety of Kern Community College District students and employees and to ensure that student learning continues if student education should be conducted from alternate locations or virtual learning environments; and

WHEREAS the protection of the health and safety and preservation of the lives and property of the people of the State of California from the effects of natural emergencies such as COVID-19, which may result in conditions of disaster or in extreme peril to life, property, and resources is of paramount importance requiring the responsible efforts of public and private agencies and individual citizens, and all public employees required to serve as disaster service workers subject to such disaster service activities as may be assigned to them by their superiors or by law under Government Code section 3100; and

WHEREAS Section 8558 subdivision (b) of the Government Code defines “state of emergency” to mean the duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons and
property within the state caused by conditions as air pollution, fire, flood, storm, epidemic, riot, drought, cyberterrorism, sudden and severe energy shortage, plant or animal infestation or disease, the Governor's warning of an earthquake or volcanic prediction, or an earthquake, or other conditions, other than conditions resulting from a labor controversy or conditions causing a “state of war emergency,” which, by reason of their magnitude, are or are likely to be beyond the control of the services, personnel, equipment, and facilities of any single county, city and county, or city and require the combined forces of a mutual aid region or regions to combat, or with respect to regulated energy utilities, a sudden and severe energy shortage requires extraordinary measures beyond the authority vested in the California Public Utilities Commission.

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 California Code of Regulations 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;” and

WHEREAS under California Public Contract Code section 22050, in an emergency pursuant to a four-fifths vote of its governing body, may repair or replace a public facility, take any directly related and immediate action required by that emergency, and procure the necessary equipment, services, and supplies for those purposes, without giving notice for bids to let contracts. Before a governing body takes any action to make an emergency contract, it shall make a finding, based on substantial evidence set forth in the minutes of its meeting, that the emergency will not permit a delay resulting from a competitive solicitation for bids, and that the action is necessary to respond to the emergency. The governing body, by a four-fifths vote, may delegate, by resolution or ordinance, to the appropriate county administrative officer, city manager, chief engineer, or other nonelected agency officer, the authority to order any action under this section;

NOW, THEREFORE BE IT RESOLVED that the Board of Trustees hereby determines that the circumstances described in this Resolution constitute an emergency for purposes of, including, but not limited to the Education Code, Government Code, Public Contract Code, Title 5 of the California Code of Regulations, and the Kern Community College District’s collective bargaining agreements; and

BE IT FURTHER RESOLVED that the Board of Trustees authorizes the Chancellor or his designee to take any and all actions necessary to help ensure the continuation of public education and the health and safety of students and employees, including, but not limited to:

i. The relocation of students and staff; ii. Implementing telecommute options for employees; iii. Provision of alternative education programs and operational options including, without limitation, cancelling classes, temporarily transitioning courses and instruction to alternative delivery formats including but not limited to an online or telecommuting environment and mode of operation; iv. Provision of leaves of absence to impacted employees, with or without pay as determined by the Chancellor, in accordance with Education Code sections 87765 and 88199; v. Directing employees to serve as disaster service workers pursuant to Government Code 3100, and to complete duties as assigned by their supervisors; and vi. Any other actions necessary to help ensure the continuation of public education and the health and safety of students and employees.
BE IT FURTHER RESOLVED that the Chancellor shall timely report to the Board of Trustees all actions taken under the authority of this Resolution, and shall comply with all other reporting and review requirements prescribed by law; and

BE IT FURTHER RESOLVED that the Chancellor and District staff are directed to explore all options for funding sources that are available or may become available as a result of emergencies that have been or may be declared by national, state, and local authorities; and

BE IT FURTHER RESOLVED that this resolution shall remain in effect until rescinded by majority vote of the Board of Trustees, or until the termination of all national, state, or local emergency declarations regarding COVID-19.

RESOLUTION NO. 00000 PASSED AND ADOPTED upon motion of Trustee _____________ seconded by Trustee _____________ at a special meeting of the Board of Trustees of the Kern Community College District on this ? day of March 2020, by the following vote:

YES:

NO:

ABSENT:

ABSTAIN:

Board of Trustees Secretary Kern Community College District