

Board Office Use: Legislative File Info.	
File ID Number	15-0649
Introduction Date	4-22-2015
Enactment Number	
Enactment Date	



OAKLAND UNIFIED
SCHOOL DISTRICT
Community Schools. Thriving Students.

Memo

To Board of Education

From Antwan Wilson, Superintendent and Secretary, Board of Education
By: Mia Settles-Tidwell, Chief Operations Officer
Lance Jackson, Interim Deputy Chief, Facilities Planning and Management

Board Meeting Date April 22, 2015

Subject Resolution authorizing an emergency contract pursuant to California Uniform Public Construction Cost Accounting Act (Pub. Contract Code, § 22000, et seq., "CUPCCAA") related the procurement of Temporary Kitchen Facilities work during repair of the Cafeteria Building at Claremont Middle School which was severely damaged by a fire on February 16, 2015.

Action Requested Approval by the Board of Education of the Resolution AUTHORIZING AN EMERGENCY CONTRACT RELATED TO TEMPORARY KITCHEN FACILITIES WORK DURING REPAIR OF THE CAFETERIA BUILDING AT THE CLAREMONT MIDDLE SCHOOL SITE

Background / Discussion

On February 16, 2015 a fire of indeterminate origin gutted the entire kitchen area and a significant portion of the cafeteria and food service area of the Cafeteria Building at the Oakland Unified School District's Claremont Middle School campus. Because the Cafeteria Building was damaged beyond repair, the safe preparation and distribution of food to the students at Claremont Middle School is no longer possible until the Cafeteria Building can be replaced. In order to continue to safely prepare and provide nutrition to District students, temporary kitchen facilities need to be leased.

The District is subject to the California Uniform Public Construction Cost Accounting Act (Pub. Contract Code, § 22000, et seq., "CUPCCAA"), which requires that construction contracts of \$175,000 or more be formally and competitive bidding. However, an exception to PCC § 22000 and the CUPCCAA competitive bidding requirements exists in cases of emergency and in order to procure the necessary equipment, services, and supplies and mitigate the loss or impairment of life, health, property, or essential public services. Because this work must be done without delay, District staff seeks Board approval to perform the temporary Kitchen Facilities Work as an emergency exception.

Local Business TBD

Participation
Percentage

Recommendation

Approval by the Board of Education of the Resolution AUTHORIZING AN EMERGENCY CONTRACT RELATED TO TEMPORARY KITCHEN FACILITIES WORK DURING REPAIR OF THE CAFETERIA BUILDING AT THE CLAREMONT MIDDLE SCHOOL SITE.

Fiscal Impact

Risk Management

Attachments

**RESOLUTION OF THE BOARD OF EDUCATION
OF THE OAKLAND UNIFIED SCHOOL DISTRICT
NO. 1415-1105
AUTHORIZING AN EMERGENCY CONTRACT RELATED TO TEMPORARY
KITCHEN FACILITIES WORK DURING REPAIR OF THE CAFETERIA
BUILDING AT THE CLAREMONT MIDDLE SCHOOL SITE**

**RESOLUTION OF THE BOARD OF EDUCATION
OF THE OAKLAND UNIFIED SCHOOL DISTRICT
NO. 1415-1105
AUTHORIZING AN EMERGENCY CONTRACT RELATED TO TEMPORARY KITCHEN
FACILITIES WORK DURING REPAIR OF THE CAFETERIA BUILDING AT THE
CLAREMONT MIDDLE SCHOOL SITE**

WHEREAS, on February 16, 2015 a fire of indeterminate origin gutted the entire kitchen area and a significant portion of the cafeteria and food service area of the Cafeteria Building at the Oakland Unified School District's Claremont Middle School campus; and

WHEREAS, as a result of the fire the Cafeteria Building was damaged beyond repair and the safe preparation and distribution of food to the students at Claremont Middle School is no longer possible until the Cafeteria Building can be replaced; and

WHEREAS, until the Cafeteria Building and kitchen can be replaced, the District needs to immediately lease a temporary kitchen and food service facility to replace this essential public service and continue to safely prepare and provide nutrition to students in the interim; and

WHEREAS, District the is subject to the California Uniform Public Construction Cost Accounting Act (Pub. Contract Code, § 22000, et seq., "CUPCCAA"), which requires that construction contracts of \$175,000 or more be formally and competitive bidding; and

WHEREAS, an exception to PCC § 22000 and the CUPCCAA competitive bidding requirements exists in cases of emergency when repair and/or replacements are necessary; and

WHEREAS, in cases of emergency, the governing board of the District ("Board") may proceed pursuant to the CUPCCAA to immediately replace or repair any public facility without adopting plans, specifications, strain sheets, or working details, or giving notice for bids to let contracts (Pub. Contract Code, § 22035); and

WHEREAS, an emergency is 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 (Pub. Contract Code, § 1102); and

WHEREAS, emergency work under section 22035 must be done pursuant to the terms of Public Contract Code section 22050; and

WHEREAS, section 22050 requires, in relevant part, that the following steps be taken:

- (1) Pursuant to a four-fifths vote of the Board, the District 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;

- (2) Before taking any action pursuant to paragraph (1), the Board 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;
- (3) If the Board orders any action specified above, the Board shall review the emergency action at its next regularly scheduled meeting and, except as specified below, at every regularly scheduled meeting thereafter until the action is terminated, to determine, by a four-fifths vote, that there is a need to continue the action. If the Board meets weekly, it may review the emergency action in accordance with this paragraph every 14 days;
- (4) When the Board reviews the emergency action, it shall terminate the action at the earliest possible date that conditions warrant so that the remainder of the emergency action may be completed by giving notice for bids to let contracts; and

WHEREAS, immediate action must be taken by the District at the Claremont Middle School site including, without limitation, the following ("Temporary Kitchen Repair Work"):

1. Relocating programs, activities and other uses at the school site as necessary during repairs and or replacement of the Cafeteria Building,
2. Taking all actions required to make the school site safe and secure to both preserve the property to the extent feasible and to prevent and minimize any possible injury to persons,
3. Procuring and/or performing other associated services and public works required to resume and continue the use of the Claremont Middle School Cafeteria; and

WHEREAS, the Temporary Kitchen Facilities Work must be performed without delay to respond to the emergency and to mitigate and minimize as quickly as possible the potential health and safety impact on students, teachers, and other District staff at the School, other users of the cafeteria, and the general public; and

WHEREAS, because of the requirement that Temporary Kitchen Facilities Work be done without delay, District staff must to direct firms to perform Temporary Kitchen Facilities Work related to the emergency without following formal bidding practices; and

NOW THEREFORE, the governing board of the Oakland Unified School District hereby finds, determines, declares, orders, and resolves as follows:

1. That the above recitals are true and correct;

2. That there is an emergency as defined by applicable statute(s) ("Emergency");
3. That the Board of Education hereby finds that in order to mitigate and minimize as quickly as possible the potential health and safety impact on students, the Claremont Temporary Kitchen Facilities Work must commence immediately and therefore will not permit the delays which would result from a competitive bidding process, and that approval of this resolution is necessary to respond to the Emergency;
4. That the Board of Education hereby resolves to execute contracts or lease agreements, as appropriate and as necessary with firms to perform all Temporary Kitchen Facilities Work, without further advertising for or inviting of bids, and to take all steps and perform all actions necessary to execute and implement those contracts;
5. That District staff report on the status of this Emergency to the District's Board at the Board's next regularly scheduled Board meeting and at all subsequent regularly scheduled Board and Facilities Committee meetings until the Board terminates the Emergency action.

PASSED AND ADOPTED by a four-fifths (4/5) vote by the Board of Education of the Oakland Unified School District this 22nd day of April, 2015; by the following vote, to wit:

AYES: Roseann Torres, Jumoke Hinton Hodge, Nina Senn, Aimee Eng, Shanthi Gonzales, Vice President Jody London, President James Harris

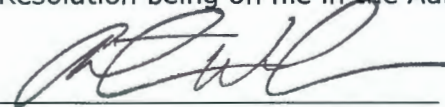
NOES: None

ABSTAINED: None

ABSENT: None

CERTIFICATION

I, Antwan Wilson, Superintendent and Secretary of the Board of Education of the Oakland Unified School District, Alameda County, State of California, do hereby certify that the foregoing Resolution was duly approved and adopted by the Board of Education of said district at a meeting thereof held on the 22nd day of April, 2015 with a copy of such Resolution being on file in the Administrative Office of said district.



 Antwan Wilson

File ID Number: 15-0649
 Introduction Date: 4/22/15
 Enactment Number: 15-0475
 Enactment Date: 4/22/15
 By: OW