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OAKLAND UNIFIED
SCHOOL DISTRICT
Community Schools. Thriving Students

Memo

TO Board of Education

FROM Antwan Wilson, Superintendent and Secretary, Board of Education
By: Vernon Hal, Senior Business Officer
Joe Dominguez, Deputy Chief, Facilities Planning and Management

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 equipment and services for emergency abatement of damaged materials, air cleansing and repair work ("Repair Work") at United for Success Academy which was severely damaged by a fire on July 20, 2016.

ACTION REQUESTED Approval of Resolution 1617-0037 - Declaring the condition of fire damage at United for Success Academy to constitute an emergency and establish and authorize a budget for the emergency abatement of damaged materials, cleansing of the air, and repair work at the school site, for a total cost to the District for the Repair Work project cost in an amount equal to its self-insurance deductible, not to exceed \$250,000.00.

SUMMARY The condition of fire damage at United for Success Academy constitutes an emergency situation and must be repaired, the air cleaned and the damaged materials abated to protect the health and safety of the students, staff and visitors to the school. Staff has solicited informal bids for this work and estimates that the total cost for the Repair Work project will exceed \$250,000.00. The initial \$250,000 will be paid for by the District to cover the deductible portion of its property insurance policy and trigger coverage for the remaining costs of the Repair Work to be paid from insurance proceeds.

DISCUSSION On Wednesday, July 20, 2016 a fire occurred at United for Success Academy and caused damage thereby necessitating the abatement of damaged materials, and restoration work, architectural, engineering, construction administration, inspection, and monitoring the abatement of hazardous materials at the school site, to return the damaged rooms, to a safe condition for student and staff use at the school site.

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 Repair Work as an emergency exception.

**LOCAL BUSINESS
PARTICIPATION
PERCENTAGE**

TBD

RECOMMENDATION

Declare the condition of fire damage at United for Success Academy to constitute an emergency and establish and authorize a budget for the emergency abatement of damaged materials, cleansing of the air, and repair work at the school site, for a total project cost not to exceed \$2,500,000.00. Authorize District staff to initiate contracts as may be necessary to repair the damage to the music room, abatement work and repair, without competitive bidding.

FUNDING SOURCE

Self-Insurance deductible proceeds for \$250,000.00 and Insurance Proceeds thereafter.

ATTACHMENT

Resolution No. 1617-0037 DECLARING THE CONDITION OF FIRE DAMAGE AT THE UNITED FOR SUCCESS ACADEMY TO CONSTITUTE AN EMERGENCY AND ESTABLISHING AND AUTHORIZING A BUDGET FOR THE EMERGENCY ABATEMENT OF DAMAGED MATERIALS, RESTORATION AND REPAIR WORK IN THE EFFECTED AREAS AT A TOTAL DISTRICT EXPENDITURE NOT TO EXCEED \$250,000.00

**RESOLUTION
OF THE
BOARD OF EDUCATION
OF THE OAKLAND UNIFIED SCHOOL DISTRICT
NO. 1617-0037
DECLARING THE CONDITION OF FIRE DAMAGE
AT UNITED FOR SUCCESS ACADEMY TO CONSTITUTE AN EMERGENCY AND
ESTABLISHING AND AUTHORIZING A BUDGET FOR THE EMERGENCY
ABATEMENT OF DAMAGED MATERIALS, RESTORATION AND REPAIR WORK IN
THE EFFECTED AREAS AT A TOTAL DISTRICT EXPENDITURE NOT TO EXCEED
\$250,000.00**

WHEREAS, on Wednesday, July 20, 2016 a fire occurred at United for Success Academy and caused damage thereby necessitating the emergency abatement of damaged materials, and restoration work, architectural/engineering/construction administration, inspection, and monitoring during the abatement of hazardous materials at the school site, to return the damaged rooms, to a safe condition for students and staff use at the school site (Repair Work); and

WHEREAS, the total cost for the Repair Work to United for Success Academy is expected to exceed the District's self-insured deductible of \$250,000;

WHEREAS, the District will be required to cover the costs of the emergency Repair Work up to its \$250,000.00 deductible, and thereafter the remaining costs will be paid under the District's Property Liability Policy;

WHEREAS, 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; 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 United for Success Academy site Repair Work including, without limitation, the following:

1. Relocating programs, activities and other uses at the school site as necessary during repairs,
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 damaged property at United for Success Academy I; and

WHEREAS, the Repair 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, and the general public; and

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

NOW, THEREFORE, BE IT RESOLVED, 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 orders to mitigate and minimize as quickly as possible the potential health and safety impact on students, the Repair 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 authorizes an expenditure not to exceed \$250,000.00 for the emergency Repair Work;
5. That the Board of Education hereby resolves to execute contracts or lease agreements, as appropriate and as necessary with firms to perform all Repair 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; and
6. 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 of Education 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 10th day of August, 2016; by the following vote, to wit:

AYES: Jody London, Shanthi Gonzales, Roseann Torres, Vice President Nina Senn, President James Harris

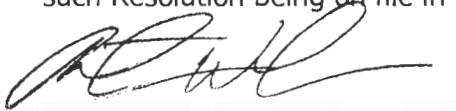
NOES: None

ABSTAINED: None

ABSENT: Jumoke Hinton Hodge, Aimee Eng

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 10th day of August, 2016, with a copy of such Resolution being on file in the Office of the Board of Education of said district.

A handwritten signature in black ink, appearing to read 'Antwan Wilson', is written over a horizontal line.

Antwan Wilson