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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 declaring an emergency 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 the Lincoln Elementary School site, 225 11th St, Oakland, CA 94607.

**ACTION REQUESTED** Approval of Resolution 1617-0038 - Declaring an emergency and directing staff to proceed with procurement of the Repair Work and coordinate all activities to achieve environmental remediation, testing and clearance prior to school opening August 22, 2016, and establish and authorize a budget for the emergency Repair Work for a total cost to the District in an amount equal to its self-insurance deductible, not to exceed \$250,000.00.

**DISCUSSION** The water intrusion repair project that began at Lincoln Elementary School this summer to address water intrusion and latent mold safety concerns, has revealed an unanticipated level of damage at the east wall and roof of the 2 story classroom building, originally built in 2008. In order to proceed immediately with the additional remediation and repairs, an Emergency Resolution is required. Facilities and Risk Departments will coordinate activities to achieve environmental remediation, testing and clearance and reasonable completion of associated repairs prior to school opening August 22, 2016. Thereafter, staff will monitor, control and mitigate further water intrusion that may occur over the 16-17 school year. All remaining Facility repairs and the re-stuccoing and painting of the building will take place next summer.

Preliminary estimates show 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.

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  
RECOMMENDATION**

TBD

Acknowledge the existence of an emergency condition at Lincoln Elementary School and need to mitigate the loss or impairment of property and essential public services and authorize District staff initiate contracts as may be necessary to proceed with the testing and abatement work and attendant repairs, without competitive bidding.

**FUNDING SOURCE**

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

**ATTACHMENT**

Resolution No. 1617-0038 - **DECLARING AN EMERGENCY PURSUANT TO CALIFORNIA UNIFORM PUBLIC CONSTRUCTION COST ACCOUNTING ACT FOR THE PROCUREMENT OF EQUIPMENT AND SERVICES FOR EMERGENCY ABATEMENT OF DAMAGED MATERIALS, AIR CLEANSING AND REPAIR WORK AT THE LINCOLN ELEMENTARY SCHOOL SITE, 225 11TH ST, OAKLAND, CA 94607 AND AUTHORIZING A BUDGET FOR THE EMERGENCY REPAIR WORK FOR TOTAL DISTRICT EXPENDITURE NOT TO EXCEED \$250,000.00**

**RESOLUTION  
OF THE  
BOARD OF EDUCATION  
OF THE OAKLAND UNIFIED SCHOOL DISTRICT  
NO. 1617-0038**

**DECLARING AN EMERGENCY PURSUANT TO CALIFORNIA UNIFORM  
PUBLIC CONSTRUCTION COST ACCOUNTING ACT (CUPCCAA) FOR THE  
PROCUREMENT OF EQUIPMENT AND SERVICES FOR EMERGENCY ABATEMENT  
OF DAMAGED MATERIALS, AIR CLEANSING AND REPAIR WORK AT THE  
LINCOLN ELEMENTARY SCHOOL SITE, 225 11TH ST, OAKLAND, CA 94607 AND  
AUTHORIZING A BUDGET FOR THE EMERGENCY REPAIR WORK FOR TOTAL  
DISTRICT EXPENDITURE NOT TO EXCEED \$250,000.00**

**WHEREAS**, the water intrusion repair project that began at Lincoln Elementary School this summer to address water intrusion and latent mold safety concerns, has revealed an unanticipated level of damage at the east wall and roof of the 2 story classroom building, originally built in 2008; and

**WHEREAS**, in order to proceed immediately with the additional remediation and repairs ("Repair Work"), an Emergency Resolution is required in order to achieve environmental clearance and reasonable completion of associated repairs prior to school opening August 22, 2016; and

**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; and

**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 the Lincoln Elementary School site Repair Work including, without limitation, the following:

1. 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,

2. Procuring and/or performing other associated services and public works required to resume and continue the use of the damaged property at Lincoln Elementary School; 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 the 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 order 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 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
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 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: Shanthi Gonzales, Jody London, Aimee Eng, Vice President Nina Senn, President James Harri:  
Roseann Torres

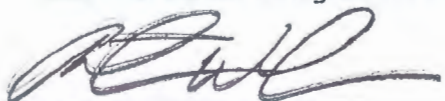
NOES: None

ABSTAINED: None

ABSENT: Jumoke Hinton Hodge

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



Antwan Wilson