



SACRAMENTO CITY UNIFIED SCHOOL DISTRICT BOARD OF EDUCATION

Agenda Item# 12.1m

Meeting Date: January 19, 2023

Subject: Approve Resolution No. 3303 to determine an emergency exists and authorize district staff to procure a contract for repair

- Information Item Only
- Approval on Consent Agenda
- Conference (for discussion only)
- Conference/First Reading (Action Anticipated: _____)
- Conference/Action
- Action
- Public Hearing

Department: Facilities Support Services

Recommendation: RESOLUTION OF THE BOARD OF EDUCATION OF THE SACRAMENTO CITY UNIFIED SCHOOL DISTRICT TO DETERMINE THAT AN EMERGENCY EXISTS, THAT FORMAL BIDDING OF THE REPAIR WORK AT LUTHER BURBANK HIGH SCHOOL IS WAIVED, AND APPROVING STAFF TO PROCURE A CONTRACT FOR REPAIR

Background/Rationale:

The January 2023 severe rain and windstorms caused a tree to fall on classrooms J1 and J2 at Luther Burbank High School resulting in significant exterior and interior damage to the buildings and surrounding area. Immediate action was taken to secure the building, but further exigent repairs are required to fully remediate the damage and make the building and site safe and secure. There is not sufficient time for informal bidding to secure a contract to perform the Repair Work without delaying or interfering with the essential public services provided by the District and/or increasing the likelihood of damage to persons and property. The District believes that pursuing a contract without bidding pursuant to Public Contract Code sections 22035 and 22050 and based on futility is warranted

Each following board meeting, staff shall provide an update on this repair, including an amended resolution authorizing the contract for repair with contractor. This update will continue until the emergency is no longer in place

Financial Considerations: Measure Q – Price TBD

LCAP Goal (s): Operational Excellence

Documents Attached: Resolution No. 3303

Estimated Time of Presentation: N/A

Submitted by: Rose Ramos, Chief Business and Operations Officer

Chris Ralston, Director of Facilities Management

Approved by: Jorge A. Aguilar, Superintendent

RESOLUTION NO. 3303

**RESOLUTION OF THE BOARD OF EDUCATION OF THE
SACRAMENTO CITY UNIFIED SCHOOL DISTRICT TO DETERMINE THAT AN
EMERGENCY EXISTS, THAT FORMAL BIDDING OF THE REPAIR WORK AT LUTHER
BURBANK HIGH SCHOOL IS WAIVED, AND APPROVING THE CONTRACT**

WHEREAS, Sacramento City Unified School District ("District") is subject to the California Uniform Public Construction Cost Accounting Act, Public Contract Code section 22000 et seq. ("CUPCCAA"), and must informally bid any contract for construction work exceeding \$60,000 and up to \$200,000 in value and formally bid any contract over \$200,000;

WHEREAS, CUPCCAA supersedes the bidding procedures in Public Contract Code section 20111 et seq. unless CUPCCAA is silent on the matter;

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

WHEREAS, Public Contract Code section 1102 defines an emergency as 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;

WHEREAS, emergency work under Public Contract Code section 22035 must be done pursuant to the terms of Public Contract Code section 22050, which requires the following:

- (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 an 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) The Board, by a four-fifths vote, may delegate to the District Superintendent and/or his designee, the authority to order any action pursuant to paragraph (1);
- (4) If a person with authority delegated pursuant to paragraph (3) orders any action specified in paragraph (1), that person shall report to the Board, at its next meeting, the reasons justifying why the emergency will not permit a delay resulting from a competitive solicitation for bids and why the action is necessary to respond to the emergency;
- (5) 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;

- (6) If a person with delegated authority orders any action specified in paragraph (1), the Board shall initially review the emergency action not later than seven days after the action, or at its next regularly scheduled meeting if that meeting will occur not later than 14 days after the action, and at least 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, unless a person with delegated authority has terminated that action prior to the Board reviewing the emergency action and making a determination pursuant to this provision;
- (7) 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;

WHEREAS, in January 2023, there was an unexpected severe rain and windstorm at Luther Burbank High School, resulting in a tree falling on Classrooms J1 and J2 causing significant exterior and interior damage to the building and surrounding area;

WHEREAS, immediate action was taken to secure the building, but further exigent repairs are required to fully remediate the damage and make the building and site safe and secure to prevent and minimize any possible safety issues to persons or property ("Repair Work");

WHEREAS, the District needs to have a contractor complete the Repair Work once specified by a design professional without further delay and before Classrooms J1 and J2 at Luther Burbank High School reopens to minimize any possible injury to persons or damage to property and mitigate any adverse conditions that would trigger further damage to the Classroom J1 and J2 or potential safety issues for students or staff;

WHEREAS, there is not sufficient time for informal bidding to secure a contract to perform the Repair Work without delaying or interfering with the essential public services provided by the District and/or increasing the likelihood of damage to persons and property;

WHEREAS, due to concerns about staff safety and interruption to the District's programs and services to students, the District believes that pursuing a contract without bidding pursuant to Public Contract Code sections 22035 and 22050 and based on futility is warranted; and

NOW, THEREFORE BE IT RESOLVED by the Board of Education of the Sacramento City Unified School District hereby resolves, determines, and finds by at least a four-fifths vote the following:

Section 1. That the above recitals are true and correct.

Section 2. That an emergency existed and now exists that would not and does not permit a delay resulting from a competitive solicitation for bids, and that the action taken was, and the actions to be taken are, necessary to respond to the emergency.

Section 3. That District’s Superintendent, or designee, is hereby authorized to execute such further contracts or change orders, as appropriate and as necessary to complete the 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.

Section 4. That District staff report on the status of this emergency to the Board at the Board’s next regularly scheduled Board meeting and at all subsequent regularly scheduled Board meetings until the Board terminates the emergency action.

APPROVED, PASSED AND ADOPTED by the Board of Education of the Sacramento City Unified School District on this 19th day of January, 2023, by the following vote:

AYES: _____

NOES: _____

ABSENT: _____

ABSTAIN: _____

ATTESTED TO:

Chinua Rhodes,
President of the Board of Education

Jorge A. Aguilar, J.D.,
Secretary of the Board of Education