

ROWLAND UNIFIED SCHOOL DISTRICT

RESOLUTION NO. AS-20-21:13

RESOLUTION IN SUPPORT OF THE EMERGENCY ARISING FROM CORONAVIRUS (COVID-19) AND FOR SCHOOL SAFETY PROJECTS

WHEREAS, on March 27, 2020, Congress approved the Coronavirus Aid, Relief and Economic Security Act (CARES Act), which allocates Federal and State aid to the District. The main funding sources are the Elementary and Secondary School Emergency Relief Fund (ESSER Fund) and the Governor's Emergency Education Relief Fund (GEER Fund) ("Fund I"); and

WHEREAS, on December 27, 2020, Congress approved the Coronavirus Response and Relief Supplemental Appropriations (CRRSA Act), which allocates funds to the District. The main funding sources are the Elementary and Secondary School Emergency Relief (ESSER II) Fund and the Governor's Emergency Education Relief (GEER II) ("Fund II"); and

WHEREAS, on March 5, 2021, Governor Newsom signed AB 86 into law, which allocates \$2 billion for In-Person Instruction and \$4.6 billion for Expanded Learning Opportunities to school districts; and

WHEREAS, on March 11, 2021, Congress approved the American Rescue Plan Act (ARP Act) which allocates additional funds to the District. The main funding source is the ARP Elementary and Secondary School Emergency Relief Fund (ARP ESSER) ("Fund III"). Funds I, II and III are collectively referred to herein as "Relief Funds"; and

WHEREAS, as specified in the Relief Fund bills, Relief Funds can generally be used for school facility repairs and improvements to reduce the risk of virus transmission and exposure to environmental health hazards, and to support student health needs, including projects to improve the indoor air quality in school facilities ("Safety Projects"). This includes improvements to mechanical and nonmechanical heating, ventilation, and air conditioning systems, filtering, purification and other air cleaning, fans, control systems, and window and door repair and replacement; and

WHEREAS, Public Contract Code section 20111 requires a school district to competitively bid a contract for the purchase of equipment, materials, supplies, services, repairs, and routine maintenance, exceeding \$96,700, and construction services exceeding \$15,000; and

WHEREAS, the District has opted to comply and be subject to the California Uniform Public Construction Cost Accounting Act (Public Contract Code §§ 22000 et seq.) (the "Act"), which adjusts the above bid limits for construction services; and

WHEREAS, an exception to sections 20111 and the Act exists "[i]n cases of emergency when repair or replacements are necessary the governing body may proceed at once to replace or repair any public facility...without... notice of bids to let contracts" (Pub. Con. Code § 22035(a)), "pursuant to a four-fifths vote of its governing body" the District, "may ... 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” (Pub. Con. Code § 22050(a)(1), emphasis added); 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 (Public Contract Code § 1102), including the continuance of existing school classes (Public Contract Code § 20113); and

WHEREAS, an emergency situation exists where the District will have to make purchases of equipment and supplies and enter into contracts for construction services that exceed the bid limits set forth in the Public Contract Code in order for the District to fully utilize the Relief Funds and AB 86 funding to make District schools as safe as possible while ensuring that the Safety Projects are done timely and efficiently to meet educational needs; and

WHEREAS, Public Contract Code section 22050 requires the following steps be taken for the District to take action in an emergency situation:

- (1) Pursuant to a four-fifths (4/5) vote of the Board, the District may 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) The Board, by a four-fifths (4/5) vote, may delegate the District Superintendent and/or 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 required pursuant to this section, 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 (4/5) 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;
- (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 no 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 (4/5) 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 subdivision. If the Board meets weekly, it may, after the initial review, review the emergency action in accordance with this paragraph every 14 days;

- (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; and

NOW THEREFORE, the Governing Board of the Rowland Unified School District hereby finds, determines, declares, orders, and resolves as follows:

1. That the foregoing recitals are true.
2. That the circumstances described in the Resolution require entering into construction contracts and/or making purchases of services, equipment, materials and/or supplies and taking other required actions as needed in order to mitigate the effects of COVID-19 by utilizing available funding for Safety Projects to create safe learning environments, and that those circumstances constitute an emergency condition ("Emergency"); and
3. The circumstances of the Emergency necessitate that required contracts and other actions related to the Emergency be let without a competitive solicitation for bids to respond to the Emergency; and
4. That the District's Superintendent or designee is authorized to execute contracts or amendments and take other required actions, as appropriate and as necessary with firms to perform work related to the Emergency, without further advertising for or inviting of bids, and to take all steps and perform all actions necessary to execute and implement those contracts, amendments or other actions; and
5. That all contracts with firms to perform work related to the Emergency for which performance has already begun are hereby ratified and the District's Superintendent or designee is authorized to execute amendments, as appropriate and as necessary, 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 meetings until the Board terminates the Emergency action.

BE IT FURTHER RESOLVED, that the District's Superintendent or designee is authorized pursuant to this Resolution to take any action which is necessary to carry out, give effect to, and comply with the terms and intent of this Resolution.

PASSED AND ADOPTED this 22nd day of April 2021, by the Governing Board of the Rowland Unified School District, by the following vote:

AYES: _____ NOES: _____ ABSENT: _____
ABSTAIN: _____

STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

I, **Erik Venegas** of the Governing Board of the Rowland Unified School District of Los Angeles County, California, do hereby certify that the foregoing is a full, true, and correct copy of a resolution adopted by the said Board at a regular Meeting thereof held at its regular place of meeting at the time and by the vote above stated, which resolution is on file in the office of the said Board.

Clerk/Secretary of the Governing Board