

## **SAN MATEO-FOSTER CITY SCHOOL DISTRICT**

### **RESOLUTION NO. 14/21-22 AUTHORIZING EMERGENCY CONTRACTS RELATED TO THE WATER DAMAGE AT ABBOTT MIDDLE SCHOOL**

**WHEREAS**, on or about October 24, 2021, water intrusion occurred at the Abbott Middle School Site (“Abbott”) that resulted in damage to the District’s structures and equipment currently estimated to exceed \$200,000; and

**WHEREAS**, generally, Public Contract Code section 20111 requires a school district to competitively bid any contract for services exceeding \$60,000; and

**WHEREAS**, generally, Public Contract Code section 22030, et seq., requires a school district that has opted to comply with the Uniform Public Construction Cost Accounting Act (Public Contract Code, § 22000, et seq., the “Act”) to informally bid any contract for construction work exceeding \$60,000 in value and to formally bid any contract for construction work exceeding \$200,000 in value; and

**WHEREAS**, an exception to sections 20111 and 22030, et seq., exists in cases of emergency when repair or replacements are necessary; 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**, in cases of an emergency, since the governing board of the District (“Board”) has opted to comply with the Act, the Board may immediately replace or repair any public facility without adopting plans, specifications, strain sheets, or working details, or giving notice for bids to let contracts (Public Contract Code, § 22035); 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 the following steps be taken:

- (1) Pursuant to a four-fifths (4/5) 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) The Board, by a four-fifths (4/5) vote, may delegate the District Superintendent and/or its 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 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 (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

**WHEREAS**, immediate action must be taken by the District at Abbott including, without limitation, the following (“Water Damage Remediation Work”):

1. Cleaning the school site,
2. Making necessary immediate repairs,
3. Refurbishing portions of the school site to mitigate further damage,
4. Procuring interim facilities or equipment for students, teachers, and administrators,
5. Procuring and/or performing other associated services and public works required to continue the use of Abbott school; and

**WHEREAS**, the Water Damage Remediation Work must be performed without delay to respond to the emergency and to (1) mitigate any further damage to the District’s facilities at Abbott and (2) to minimize as quickly as possible the impact on students and staff; and

**WHEREAS**, because of the requirement that Water Damage Remediation Work be done without delay, District staff was required to direct firms to immediately perform Water Damage Remediation Work related to the Emergency; and

**THEREFORE, BE IT RESOLVED**, that the Board of Trustees of the San Mateo-Foster City School District hereby finds, determines, declares, orders, and resolves as follows:

1. That the above recitals are true and correct;
2. That the Water Damage at Abbott is an emergency as defined by applicable statute(s) (“Emergency”);
3. The circumstances of the Emergency necessitate that Water Damage Remediation Work related to the Emergency be let without a competitive solicitation for bids to respond to the Emergency;
4. That the District’s superintendent or her designee is authorized to execute contracts or change orders, as appropriate and as necessary with firms to perform Water Damage Remediation 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;
5. That all contracts with firms to perform Water Damage Remediation Work related to the Emergency for which performance has already begun are hereby ratified and the District’s superintendent or her designee is authorized to execute change orders, as appropriate and as necessary, and to take all steps and perform all actions necessary to execute and implement those contracts;
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.

**PASSED AND ADOPTED** by the Board of Trustees of the San Mateo-Foster City School District, Foster City, California this 18th day of November 2021 by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

ATTEST:

---

Secretary of Said Board