Campbell Union High School District

September 21, 2017

TO: Board of Trustees

FROM: Nancy Torres Pfeiffer, Assistant Superintendent, Business Services

PREPARED BY: David Pimental, Director of Purchasing

SUBJECT: Approve Amendment to Section 5 of Resolution #01-08-17-17 Authorizing an increase to the Sole Source Purchase of Electrical Utilities in the amount of $140,000

FOR: [ ] Public Hearing [ ] Recognition/Presentation [ ] Report [ ] Discussion
[ ] Communication [ ] Information/First Reading [X] Consent [ ] Board Action

I. Support Information

During the Board Meeting held on August 17, 2017, the Board of Trustees adopted Resolution #01-08-17-17 authorizing the sole source purchase of electrical utilities at an amount not to exceed $480,000.00. Not included in that estimate was a portion to cover electrical utilities for the District Office. Pacific Gas and Electric (PG&E) is the only provider of a comprehensive electrical grid network that services the Santa Clara County region, including services to the District and its schools, thus the District does not need to comply with competitive bidding processes where it would be incongruous, futile, and unavailing. The bidding process would not be advantageous for the District.

II. Budget Impact

The initial estimated cost was $480,000 with an increase of $140,000 yielding a total of $620,000, General Fund - Operations.

III. Recommendation

It is the recommendation of the Superintendent that the Board of Trustees approve the Amendment to Section 5 of Resolution #01-08-17-17 Authorizing an increase to the Sole Source Purchase of Electrical Utilities in the amount of $140,000.

RESOLUTION NO. 01-08-17-17
Amended 09/21/17
RESOLUTION OF THE BOARD OF TRUSTEES OF THE CAMPBELL UNION HIGH SCHOOL DISTRICT AUTHORIZING A SOLE SOURCE PURCHASE OF ELECTRICAL UTILITIES

WHEREAS, the Campbell Union High School District ("**District**") seeks to acquire electrical utilities ("**electricity**") for the purpose of providing a safe learning and working environment for all staff and students.

WHEREAS, the Pacific Gas and Electric Company ("**PG&E**") is an independent utility company and only provider of electricity in the Santa Clara Valley, including, San Jose, Campbell, and Saratoga.

WHEREAS, PG&E is the only provider of electricity services with an extensive grid network including the District's schools.

WHEREAS, every month, invoicing received from PG&E will be paid through a centrally funded purchase order by the Accounts Payable department.

WHEREAS, the District finds PG&E's prices for electrical utility to be reasonable, and the total amount budgeted for the 2017-2018 fiscal year, is approximately Six Hundred Twenty Thousand Dollars **($620,000)**.

WHEREAS, Public Contract Code section 20111(a) states that a school district is required to competitively bid any procurement of equipment with a contract value over Fifty Thousand Dollars ($50,000).

WHEREAS, Public Contract Code section 20111(d) states that the State Superintendent of Public Instruction shall annually adjust the dollar amounts specified in subdivision (a) to reflect the percentage change in the annual average value of the Implicit Price Deflator for State and Local Government Purchases of Goods and Services for the United States, as published by the United States Department of Commerce, for the 12-month period ending in the prior fiscal year.

WHEREAS, the bid threshold adjusted for calendar year 2017 is Eighty-Eight Thousand Three Hundred Dollars ($88,300).

WHEREAS, notwithstanding Public Contract Code section 20111, California law provides that, "Where competitive proposals work an incongruity and are unavailing as affecting the final result or where they do not produce any advantage . . . the statute requiring competitive bidding does not apply" (*Hiller v. City of Los Angeles* (1961) 197 Cal.App.2d 685, 694) and that public entities need not comply with competitive bidding processes where to do so would be impractical or futile and would not serve the purposes of competitive bidding. (*See Los Angeles Dredging Company v. City of Long Beach* (1930) 2 Cal. 348; *Graydon v. Pasadena Redevelopment Agency* (1980) 104 Cal.App.3d 631.)

WHEREAS, publicly bidding the procurement of electricity will not affect the final result because PG&E is the only provider of an extensive electrical grid network within the District's boundaries.

WHEREAS, based on the foregoing, it would be incongruous, futile and unavailing to solicit public bids for electricity.

WHEREAS, publicly bidding the procurement of electricity will not produce an advantage to the District.

NOW, THEREFORE IT BE RESOLVED, the Board of Trustees of the Campbell Union High School District hereby finds, determines, declares, orders, and resolves as follows:

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

Section 2. That the electricity is the only acceptable material, product, thing, or service and PG&E is the only local electrical utility that can provide this service for the District and is currently only available from this one source.

Section 3. That public bidding the procurement of electricity would not affect the final result or produce any advantage to the District.

Section 4. That it would be incongruous, futile, and unavailing to publicly bid the procurement of the Bus Passes.

Section 5. That the District's Superintendent, or designee, is authorized pursuant to this Resolution, without advertising for or inviting bids, purchase from PG&E enough electricity for distribution to the District for the 2017-2018 school year, in an approximate amount of Six Hundred Twenty Thousand Dollars **($620,000)**, and to take any action necessary to carry out, give effect to, and comply with the terms and intent of this Resolution.

AMENDED by the Board of Trustees of the Campbell Union High School District on September 21, 2017, by the following votes:

AYES:

NOES:

ABSTAIN:

ABSENT:

By: _____
Linda Goytia, Board President

ATTEST:

By: _____
Stacey Brown, Board Clerk

RESOLUTION NO. 01-08-17-17

RESOLUTION OF THE BOARD OF TRUSTEES OF THE CAMPBELL UNION HIGH SCHOOL DISTRICT AUTHORIZING A SOLE SOURCE PURCHASE OF ELECTRICAL UTILITIES

WHEREAS, the Campbell Union High School District ("**District**") seeks to acquire electrical utilities ("**electricity**") for the purpose of providing a safe learning and working environment for all staff and students.

WHEREAS, the Pacific Gas and Electric Company ("**PG&E**") is an independent utility company and only provider of electricity in the Santa Clara Valley, including, San Jose, Campbell, and Saratoga.

WHEREAS, PG&E is the only provider of electricity services with an extensive grid network including the District's schools.

WHEREAS, every month, invoicing received from PG&E will be paid through a centrally funded purchase order by the Accounts Payable department.

WHEREAS, the District finds PG&E's prices for electrical utility to be reasonable, and the total amount budgeted for the 2017-2018 fiscal year, is approximately Four Hundred Eighty Thousand Dollars ($480,000).

WHEREAS, Public Contract Code section 20111(a) states that a school district is required to competitively bid any procurement of equipment with a contract value over Fifty Thousand Dollars ($50,000).

WHEREAS, Public Contract Code section 20111(d) states that the State Superintendent of Public Instruction shall annually adjust the dollar amounts specified in subdivision (a) to reflect the percentage change in the annual average value of the Implicit Price Deflator for State and Local Government Purchases of Goods and Services for the United States, as published by the United States Department of Commerce, for the 12-month period ending in the prior fiscal year.

WHEREAS, the bid threshold adjusted for calendar year 2017 is Eighty-Eight Thousand Three Hundred Dollars ($88,300).

WHEREAS, notwithstanding Public Contract Code section 20111, California law provides that, "Where competitive proposals work an incongruity and are unavailing as affecting the final result or where they do not produce any advantage . . . the statute requiring competitive bidding does not apply" (*Hiller v. City of Los Angeles* (1961) 197 Cal.App.2d 685, 694) and that public entities need not comply with competitive bidding processes where to do so would be impractical or futile and would not serve the purposes of competitive bidding. (*See Los Angeles Dredging Company v. City of Long Beach* (1930) 2 Cal. 348; *Graydon v. Pasadena Redevelopment Agency* (1980) 104 Cal.App.3d 631.)

WHEREAS, publicly bidding the procurement of electricity will not affect the final result because PG&E is the only provider of an extensive electrical grid network within the District's boundaries.

WHEREAS, based on the foregoing, it would be incongruous, futile and unavailing to solicit public bids for electricity.

WHEREAS, publicly bidding the procurement of electricity will not produce an advantage to the District.

NOW, THEREFORE IT BE RESOLVED, the Board of Trustees of the Campbell Union High School District hereby finds, determines, declares, orders, and resolves as follows:

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

Section 2. That the electricity is the only acceptable material, product, thing, or service and PG&E is the only local electrical utility that can provide this service for the District and is currently only available from this one source.

Section 3. That public bidding the procurement of electricity would not affect the final result or produce any advantage to the District.

Section 4. That it would be incongruous, futile, and unavailing to publicly bid the procurement of the Bus Passes.

Section 5. That the District's Superintendent, or designee, is authorized pursuant to this Resolution, without advertising for or inviting bids, purchase from PG&E enough electricity for distribution to the District for the 2017-2018 school year, in an approximate amount of Four Hundred Eighty Thousand Dollars ($480,000), and to take any action necessary to carry out, give effect to, and comply with the terms and intent of this Resolution.

PASSED, ADOPTED, and APPROVED by the Board of Trustees of the Campbell Union High School District on August 17, 2017, by the following votes:

AYES: M. Dean, S. Brown, K. Arrasmith, K. Gallagher, L. Goytia

NOES: 0

ABSTAIN: 0

ABSENT: 0

By: _____
Linda Goytia, Board President

ATTEST:

By: _____
Stacey Brown, Board Clerk

DWK DMS 3081657v1