

RESOLUTION NO. 23-24-022

**BOARD OF EDUCATION OF THE EUREKA CITY SCHOOLS
DECLARING THE FUTILITY OF PUBLIC BIDDING FOR
THE ADDITIONAL ALTERATIONS TO THE SCIENCE BUILDING C WORK
AT EUREKA HIGH SCHOOL, AND
APPROVING A CHANGE ORDER FOR THAT WORK**

WHEREAS, the Eureka City Schools (“Agency”) and Adams Commercial General Contracting, Inc. (“Contractor”) entered into a contract for Contractor for Alterations to the Building C (Science Classrooms) at Eureka High School (“Project”);

WHEREAS, the Agency used competitive bidding for the Project under Public Contract Code section 20111(b) and Contractor was the lowest responsive, responsible bidder for the Project and was awarded a contract for the Project for Nine Million Nine Hundred Seventy Nine Thousand Six Hundred Eighty and NO/100 Dollars (\$9,979,680.00) (“Contract Price”);

WHEREAS, the Agency would like to issue a change order for additional work on the Project (“Additional Work”);

WHEREAS, Contractor has provided a quote for the Additional Work and is able to complete the Additional Work for Seventeen Thousand Seventy and 77/100 Dollars (\$17,070.77), which may exceed the limit for change orders that are not competitively bid, as established by Public Contract Code section 20118.4;

WHEREAS, the Agency’s architect, FF & J Architects, Inc., and Agency staff believe that the Contractor’s quoted price to perform the Additional Work is reasonable because the work was performed on a time and materials basis and was able to be performed during the normal course of construction with minimal delay to the project schedule;

WHEREAS, going out to bid for the Additional Work would result in substantial delay to the Project, the Additional Work, and other public works projects on building C (Science Classrooms), resulting in significantly increased costs for the Agency due to the significant work stoppage time required by the general contractor to wait for the bidding and award of contract to occur for the structural and fire life safety conditions to be corrected and finishes installed;

WHEREAS, Additional Work must be provided by the Contractor to ensure continuity of quality and appearance of the work. The work includes fire life safety repairs to the existing beam pockets in the concrete masonry walls between the corridors and the classrooms to restore the one-hour fire barrier rating. These original beam pockets were never fire safed when the building was first constructed.

WHEREAS, hiring a contractor other than the Contractor to perform the Additional Work would result in waste and delay, the general contractor currently has licensed and qualified subcontractors on site to perform this work. Using these subcontractors allows for a fully coordinated and seamless installation minimizing delays which would increase the expense of the Agency because the Contractor has already mobilized on site, is familiar with the Agency's needs, is acquainted with the Project, and has assembled its staff and crew to begin the Project;

WHEREAS, bringing in a new contractor to perform the Additional Work, which is related and similar to the work being performed by Contractor for the Project, would create coordination and interference problems with the Contractor, which would increase the Agency's expense as there would be additional overhead operating costs added by both the current contractor on site and any new contractor brought on to perform this work as well as create coordination conflicts with all the other subcontractors working within the building.;

WHEREAS, if the Agency were to bid the Additional Work, the prices of those bids would likely be higher than the price of Contractor's quote for the Additional Work because Contractor is already mobilized on the Project, thus reducing costs such as overhead, potential overtime costs to perform the work within the limited time frame available, add costs not needed as contractors would add costs to cover unknown conditions which might arise when performing work on existing structures and utility lines;

WHEREAS, the work must be completed in order for the contractor to be able to complete the work in the base contract. The work in the support rooms must be coordinated with the kitchen staff cooking meals for the students on site and use of the cafeteria by the school site while these construction activities are occurring, and the overall safety considerations required for a project of this nature;

WHEREAS, 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. (*Los Angeles Dredging Company v. City of Long Beach* (1930) 210 Cal. 348; *Graydon v. Pasadena Redevelopment Agency* (1980) 104 Cal.App.3d 631; *Taylor Bus Service, Inc. v. San Diego Bd. of Education* (1987) 195 Cal.App.3d 1331);

WHEREAS, competitively bidding the Additional Work will not affect the final result to the Agency except to further increase the cost of the Project and delay completion of the Project as the work was performed on a time and materials basis while maintaining the construction schedule and maintaining a safe work environment for both the workers and the students and staff using the cafeteria while the construction activities are occurring, and it would not produce an advantage to the Agency;

NOW THEREFORE, the Board of Education of the Eureka City Schools hereby resolves, determines, and finds the following:

1. That the foregoing recitals are true.
2. For the sufficient and independent reasons stated above, a competitive public bidding process for the Additional Work would be unavailing, would not produce an advantage to the public or the Agency, and would not serve the goals of the competitive bid process in that it would not obtain the best economic result for the public.
3. Based on the foregoing, it would be incongruous, futile, and unavailing to publicly bid the Additional Work.
4. Accordingly, Agency's governing body hereby approves a change order with the Contractor to perform the Additional Work, which change order is attached hereto as Exhibit "A," without further advertising for or inviting of bids.

The foregoing Resolution was adopted by the governing body of the Eureka City Schools at a regularly scheduled meeting on the 14th day of December 2023, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Fred Van Vleck, Ed. D.

Secretary of the Board of Education of
Eureka City Schools of
Humboldt County, State of California

Exhibit A

Change Order No. 17

See attached change order no. 17 consisting of one page, dated December 2, 2023.

**CHANGE
ORDER***AIA DOCUMENT G701*

OWNER	<input checked="" type="checkbox"/>
CONTRACTOR	<input checked="" type="checkbox"/>
ARCHITECT	<input checked="" type="checkbox"/>
FIELD	<input type="checkbox"/>
INSPECTOR	<input checked="" type="checkbox"/>

PROJECT:
Eureka High School
1915 J Street
Eureka, CA 95501

Change Order Number: 017

Date December 2, 2023
Architect's Project No. EC21.01.54

TO CONTRACTOR:
Adams Commercial General Contracting, Inc.
217 E Street
Eureka, CA 95501

Contract Date: October 21, 2022
Contract For: Alterations to Science Bldg. C

17.1 Sheets A.2.1 and A.16 (PCO 70/PR 16)
a. In Corridors C138 and C139 and each classroom fire safe the existing beam pocket penetrations through the CMU walls.

Requested by: Architect, Contractor, District

Reason: The CMU walls separating the corridors from the classrooms are one hour fire rated barriers. When the contractor removed the trim around the beams and the suspended ceilings they discovered when the building was originally constructed these beam pockets were left open which would allow smoke and fire to travel through the walls. These conditions have to be corrected to meet building code requirements.

Add \$ 17,070.77

NOT VALID UNTIL SIGNED BY THE OWNER, ARCHITECT AND CONTRACTOR

The original (**Contract Sum**) was ----- \$ 9,979,680.00
Net Change by previously authorized Change Orders ----- \$ 1,335,344.26
The (**Contract Sum**) prior to this Change Order was ----- \$ 11,315,024.26
The (**Contract Sum**) will be (**increased**) by this Change Order in the amount of ----- \$ 17,070.77
The new **Contract Sum** including this Change Order will be ----- \$ 11,332,095.03
The Contract Time will be (**unchanged**) by 0 Calendar Days (0 Working Days). ----- (0) days
The date of Substantial Completion as of the date of this Change Order therefore is December 29, 2023

NOTE: This summary does not reflect changes in the Contract Sum, Contract Time, or Guaranteed Maximum Price which have been authorized by Construction Change Directive.

ARCHITECT

F F & J Architects, Inc.
2101 Geer Road, Suite 308
Turlock, CA 95382

CONTRACTOR

Adams Commercial General Contracting, Inc.
217 E Street
Eureka, CA 95501

OWNER

Eureka City Schools
2100 J Street
Eureka, CA 95501

By

By

By

Date DEC. 2, 2023

Date _____

Date _____