RESOLUTION NO. 28/20-21

OHLONE COMMUNITY COLLEGE DISTRICT BOARD OF TRUSTEES

RESOLUTION OF FUTILITY REGARDING ACADEMIC CORE BUILDING PROJECT – EMERGENCY RESPONDER RADIO SYSTEM

WHEREAS, the Ohlone Community College District ("District") is currently completing the construction the Academic Core Building Project ("Project");

WHEREAS, the Project has been completed except for limited punchlist and warranty and related work.

WHEREAS, Contra Costa Electric and EMCOR Co. (collectively, “Contra Costa”) were the electrical subcontractor for the Academic Core Buildings responsible for all the electrical, low voltage, fire alarm and security systems. Contra Costa has maintained a presence on site over the last year to complete punchlist and warranty work;

WHEREAS, The Emergency Responder Radio System scope was referred to in the original contact documents, but not required unless confirmed necessary following the completion of the three Project buildings. Emergency responder radio frequency testing was completed on all three buildings and it was determined that there were dead spots within each building.

WHEREAS, Incorporation of the Emergency Responder Radio System is required as soon as possible to meet local jurisdiction code / requirements;

WHEREAS, the District would like to use Contra Costa as the contractor for the Emergency Responder Radio System scope work. However, this scope of work would normally be subject to the competitive bidding rules which require that the District select the lowest responsive and responsible bidder.

WHEREAS, Contra Costa already visits the site off and on assisting the District with warranty issues, if they were also awarded the Emergency Responder Radio System work, they would charge less for site work set up and storage as they already have a site presence and they are extremely familiar with the three buildings. If the Emergency Responder Radio System work were performed by different contractor, the District would have to pay additional costs for site mobilization and demobilization that would otherwise be avoided by contracting with Contra Costa.

WHEREAS, by using the previous Project contractor for the electrical, low voltage and fire alarm work, the District avoids the risk of a gap occurring between the scopes of work of the Project and the emergency responder radio system scope. Contra Costa has intimate knowledge of all three buildings as they have been on site for the last three years;

WHEREAS, Contra Costa is also able to bring on the same low voltage and fire alarm subcontractors that installed the original scope of work for ACB who also maintain intimate knowledge of the buildings and original systems intelligence. This will ensure the emergency responder system is compliant and uniform with the existing system. Introducing a new
contractor that is not familiar with the buildings or the existing systems could result in additional costs to the District in change orders for unforeseen or unknown conditions;

WHEREAS, Contra Costa has been providing construction services for the Project since June 2016. Contra Costa has developed good communications with the District’s Construction Manager, Gilbane, as well as the Inspector of Record, Michael Henley Co., has evaluated and investigated existing conditions, conducted Project research, and become familiar with campus operations. Because of this experience and knowledge acquired over four years of Project involvement, Contra Costa should reasonably be expected to provide the most responsive/responsible pricing available for the Emergency Responder Radio System scope of work.

WHEREAS, Contra Costa could start work immediately following board approval and contract execution. This would ensure all work is complete prior to the Fall semester. If the Emergency Responder Radio System scope work were to be issued for public bidding, this would delay installation and likely push this code required scope beyond school opening in Fall.

WHEREAS, California law provides 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. (Graydon v. Pasadena Redevelopment Agency (1980) 104 Cal.App.3d 631.); "[w]here 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).

NOW THEREFORE, the Ohlone Community College District Board of Trustees hereby resolves, determines, and finds the following:

Section 1. That the foregoing recitals are true.

Section 2. That competitively bidding the Emergency Responder Radio System scope work would be futile, not serve the purposes of competitive bidding, and not produce any advantage to the District for the following reasons:

1. That the foregoing recitals are true.

2. For the reason stated above, it was in the best interest of the District to accommodate proceed with the Emergency Responder Radio System scope work promptly to accommodate code requirements;

3. For the reason stated above, public bidding of the work would not produce an advantage to the District and would produce a net burden and distinct disadvantages to the District.

4. Based on the foregoing, it would be incongruous, futile, and unavailing to publicly bid the work.
5. That the District’s Chancellor or designee is authorized to take all steps and perform all actions necessary to execute and implement the contract with Contra Costa for the Emergency Responder Radio System scope work.

Section 3. That the District’s President 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 by Ohlone Community College District Board of Trustees, this ____ day of ____________, 2021, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

By: _____________________________
    President, Board of Trustees
    Ohlone Community College District

Attest:

__________________________  Secretary,
Board of Trustees
of the Ohlone Community College District