

RESOLUTION NO. 002122-BS001

**RESOLUTION OF THE BOARD OF EDUCATION OF THE WEST COVINA UNIFIED
SCHOOL DISTRICT AUTHORIZING APPROVAL OF ACC CONTRACTORS CHANGE
ORDER NO. 5 FOR THE WCHS CTE SCIENCE BUILDING PROJECT**

WHEREAS, District contracted with ACC Contractors on the WCHS CTE Science building Project for the Construction of a new 30 thousand sq. foot building and site improvements;

WHEREAS, during construction certain changes were required to the scope of work for the Project that would enable the District to use the building;

WHEREAS, the District now wishes to incorporate those changes into ACC Contractors contract, including claims for time extension overhead and management cost.

WHEREAS, ACC Contractors has provided the District with Change Order Request No. 5, in the amount of \$491,345.00, to perform the work and the District has reviewed and negotiated those costs as necessary;

WHEREAS, it would be more costly, time-consuming and potentially cause impacts and labor inefficiencies on the WCHS CTE Science building Project to seek other bids for the changed work;

WHEREAS, ACC Contractors Change Order Request No. 5 exceeds the bid threshold limitations set forth in Public Contract Code section 20118.4;

WHEREAS, *Los Angeles Dredging Company v. Long Beach* (1930) 210 Cal. 348 holds that statutes requiring competitive bidding do not apply when competitive bidding would work an incongruity or not produce any advantage;

WHEREAS, the Change Order Request No. 5 is comprised of proposed change orders numbered 18R2, 58, 67, 68, 71, 74, 84, 103, 104, 112R1, 114, 115, 116R3, 118R1, 119, 120, 120-1, 124, 125, 126R1, 127, 128, 129, 130, 132, 133 and those proposed changed orders are an integral part of ACC Contractors contractual work and it would work an incongruity and not produce any advantage to the District to competitively bid the work in Change Order Request No. 5, including, but not limited to the fact that, ACC Contractors is already on site and would not have to mobilize to the site, ACC Contractors is already familiar with the nuances of the site and scopes of work, and any additional delays would effect occupancy of the building and may cause delays to other trade contractors.

NOW, THEREFORE, BE IT RESOLVED that the Governing Board makes the following findings regarding the acceptance and approval of ACC Contractors Change Order Request No. 5:

1. That the above recitals are true and correct.

2. That competitive bids would result in substantial time delays affecting occupancy of the building for the fall school year, increased costs because another contractor would have to mobilize to the site and would be unfamiliar with the site and scope of the entire project, and potentially cause costly delays to other trade contractors on the project.

3. That it would work an incongruity and not produce any advantages to the District to competitively bid the scope of work in Change Order Request No. 5.

4. That ACC Contractors Change Order Request No. 5 is approved in the amount of \$491,345.00.

PASSED AND ADOPTED by the Governing Board of the West Covina Unified School District this 14 day of September, 2021.

AYES: _____

NOES: _____

ABSENT: _____

ABSTAINING: _____

I, Michael Flowers, Clerk of the Governing Board of the West Covina Unified School District, do hereby certify that the foregoing resolution was duly adopted by Governing Board at a regular meeting held on September 14, 2021.

Michael Flowers, Clerk
Board of Education