

**MINUTES - BOARD OF EDUCATION SPECIAL MEETING
Fresno Unified School District
July 8, 2015**

**Fresno, California
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Office of the Board of Education, Fresno Unified School District, Education Center, 2309 Tulare Street, Fresno, California, 93721.

Special Meeting

At a Special meeting of the Board of Education of Fresno Unified School District, held on July 8, 2015, there were present Members Ashjian, Chavez, De La Cerda, Mills, Ryan, and President Johnson. Also present was Superintendent Hanson. Member Davis was absent.

President Johnson convened the Special Board meeting at 4:33 p.m. in the Board Room and adjourned to Closed Session. The Board reconvened in Open Session at 4:46 p.m.

Staff Present

Deputy Superintendent Quinto, Instructional Superintendent Russell and Wall, Chief Operations Officer Temple, Interim Chief Information Officer Idsvoog, Chief Technology Officer Madden, Chief of Staff Chavez, Chief of Human Resources/Labor Relations Idsvoog.

Reporting Out of Closed Session

1. By a vote of 6-0-1, the Board took action in Closed Session to appoint/promote Carlos Castillo, Principal V, Bullard High School.
2. By a vote of 6-0-1, the Board took action in Closed Session to appoint/promote Kimberly Wong-Villescaz, Principal III, Wawona Middle School.

Item 1, Approve Bid 15-34, Infrastructure for Portable Buildings Relocation at Various Schools

Approved as recommended, Bid 15-34 to provide infrastructure for 18 portable classrooms relocated to Bakman, Storey and Wilson Elementary Schools; Computech Middle School; Edison High School, and J.E. Young Academic Center to accommodate enrollment changes and best serve student needs. The project includes constructing concrete pads with ramps, and utilities hook-up. The request for bids was lawfully advertised on June 17, 2015. Notifications were sent to eighty-five (85) vendors and four (4) construction trade publications, and the district received two (2) responses.

Staff recommends award to the lowest responsive, responsible bidder:
 Davis Moreno Construction, Inc. (Fresno, California) \$1,424,500
 An opportunity was provided to hear questions/concerns from members of the Board and staff was available to respond.

Member Mills – With respect to the bid, why are we not just approving the bid? Why is there a contingency amount of \$129,500?

Karin Temple – It is our practice when we award hard bids as well as lease lease-back projects to build in a certain amount for contingency. For example, if there is a scope change at district request or if there is an unforeseen circumstance the dollar amount is already included in the bid amount.

Member Mills – I don't remember us building this in. I remember with hard bids, change orders coming back to the board for approval, sometimes more than one or two on a project. I don't remember building in contingencies for hard bids before.

Karin Temple – It has been our practice for quite some time now. If we go back and look at previous awards I think you would see it on there. Most recently, the award bid that we did on the paint contracts had a contingency amount. It is a best practice that other districts use so we took on that practice some time ago. Two or three years ago I believe.

Member Mills – About the same time we started lease lease-back?

Karin Temple – It was one of the learnings from lease lease-back. As you know we also do contingencies with lease lease-backs as well. It gives the district the flexibility on a scope change or an unforeseen circumstance. We can get the work done immediately and not submit a change order. The board does see the change orders on a monthly basis through the purchase orders. That again is our normal practice.

Member Mills – Is there a reason we cannot award just for the hard bid amount?

Karin Temple – We think this is a better practice because it allows us the flexibility.

Member Ashjian – Technically you are asking us to approve \$130,000 worth of potential change orders without coming back to the board for our approval. Is that correct?

Karin Temple – What we are asking for tonight is your approval on both the awarded bid amount and the amount that would otherwise end up in change orders. There is no guarantee that there will be change orders. This amount is under district control. If it is not needed, it is not spent and the funds revert back to the district. We think it is the right way to do business. If the scope of the job changes or there is an unforeseen circumstance we can work quickly to get the job done.

Member Ashjian – The people in my district elected me to be a steward or trustee over the money. The public education code says anything over \$15,000 comes before the board and the board approves the \$15,000. What you are really asking me to do today is to approve \$130,000 worth of potential change orders without getting to see them and I don't know if that is common practice.

Karin Temple – It is common practice that when we bring change orders they are ratified. The board may recall that they have not seen a change order for some time because we instituted this practice some time ago. When we brought change orders some years ago they were ratified. In this case instead of the board ratifying a change order we are able to go ahead and it is already built into the project, we don't have to come back and ask for extra funds. You will see those itemized to the dollar, to the contractor on the normal purchase list that come before the board.

Member Ashjian – But the purchase order list is multiple pages, two hundred lines and a hundred vendors on one page. It is difficult for us to have to go back to every vendor and look for this one vendor for this one project. What happens is we have gotten used to saying it came under budget.

Karin Temple – It has been our practice when we discuss with the board publicly the total dollars spent on lease lease-back projects. We are always very specific as to the amount remaining in contingency. We use that term and we note that it reverts back to the district for future projects. I want to be very clear these funds can only be spent with our approval and any funds unspent stay in the funding source for future projects.

Member Ashjian – Is there a contingency in every project that we do? Is there a standard number that the district uses?

Karin Temple – I would need to ask our purchasing director. What I prefer to do is respond to that in a board communication because of the numerous types of projects we do. I don't want to say all projects. We always stick to purchasing code, government code and education code.

Member Ashjian – I just want to make sure that the board is aware that when we do a project and we say “wow” this is great, and lease lease-back is great, or hard bid is great because there is no change orders. Because that has been the mantra on lease lease-back because there is no change orders. There are change orders but they are just called contingencies.

Karin Temple – I don't think you would have ever heard staff say there are no change orders. The point of having a contingency is so we don't have to continue to bring this back to you on five future agendas in very small increments. We are not going to clog your board agenda with those. We are going to go ahead and build it in, you are entrusting us to get the job done as it has been described, we are going to do the project that we commit to, at the very best price possible, any funds not used are the districts funds.

Member Ashjian – I don't know if it is a trust issue. The issue is we are authorizing \$130,000 extra above and beyond the hard bid that we are putting in the districts hands that covers mistakes of engineers, contractors with whoever is at fault and we have this money that we can throw at it without it coming back to the board. The bid originally with the lease lease-back with BVI was \$1.9 million correct?

Karin Temple – That is correct and that included contingency.

Member Ashjian – How much was the contingency?

Karin Temple – I don't have that information with me. The project that is on the agenda tonight is a new project. It is different than the agenda item from June 3rd and June 17th.

Member Ashjian – The \$1.9 million was the original lease lease-back and 10 percent was the contingency of that?

Karin Temple – I believe it would have been ten percent.

Member Ashjian – Almost \$200,000. What scope changed between June 17, 2015 and today? How did we change \$600,000 of work in ten working days?

Karin Temple – It is \$479,310 worth of scope change. The initial project was designed to get underway on June 13, 2015 the day after school ended. The project was to move portables around the district from school to school that needed them to accommodate enrollment that we anticipated to begin in August. The project was to move the buildings and to setup the utilities, concrete pads, accessibility improvement and etc. Because of the short time-line we have pulled out \$479, 310 worth of work, therefore it is a new project.

The new project is for the infrastructure for the portable buildings, the moving of the portable buildings is what has been moved out and we are contracting for it separately. Typically it is better to include the moving of the classrooms within the overall contract but because we had to get this work done we had to contract out separately. We have also pulled out some electrical and some landscaping. In doing the analysis the cost of the lease lease-back project as it was and the cost of the hard bid project as it is now are the same.

Member Ashjian – No savings. The staff is acting as general foremen on the \$479,000 correct?

Karin Temple – Correct.

Member Ashjian – When is that bid coming forward to the board?

Karin Temple – We have authority to act within certain dollars amounts and we are acting within those amounts.

Member Ashjian – What is your authority to act within certain dollar amounts?

Karin Temple – Under certain contracting we have we have authority to bid up to \$175,000 that is under CUPCCAA. The accounting rules that the board approved about a year and a half ago that allows for a higher bid threshold for our Executive Director of Purchasing. This allows us to do this kind of work up to a certain threshold under the purchasing director's authority without coming to the board.

Member Ashjian – Your authority is up to \$175,000?

Karin Temple – Yes, for certain kinds of services.

Member Ashjian – If your authority is \$175,000, how do you get from \$479,000 to \$175,000?

Karin Temple – The portable moving cost is \$175,000 there is also demolition and utility disconnect that had to be done prior to moving the portables that would have been in the lease lease-back contract however that is a separate service with a separate subcontractor to be contracted separately. Landscaping is a separate service with a separate contractor to be contracted separately. Some utilities work, again a separate contract. These are all the separate contractors that would have done the work under the lease lease-back contract. We are now using our authority and our standard process and procedures to contract with them directly. I will make sure I will get all the board communications and the board item of when the board approved us moving to CUPCCAA, which allows us to increase our purchasing bid threshold so we could do emergency work.

Member Chavez – For clarification the way that this projects scope of work changed from the original lease lease-back to the hard bid now is we extracted some of the jobs that were supposed to be done in there and the bulk of the work now is moving the portables to the locations.

Karin Temple – The bulk of this work is once they have been moved, for example at Edison there are eight portables sitting on the play fields waiting to be moved to their final locations. The bulk of this work is to construct the concrete pads, to do the utilities, ramps, the hand rails etc. To make a portable classroom a classroom.

Member Chavez – In other words to get them classroom ready.

Karin Temple – Yes.

Member Chavez – On the timeline for when the district does these student projections. When in the school year do we do the projections? To me it seems we may have been able to do this a little sooner than June 3, 2015. Or was that not possible because of how we do our student projections?

Karin Temple – It is a long process. It starts with our enrollment projections which occurs in late October. We have our enrollment numbers finalized by the end of December from there it leads to our staffing projections which drives the need for classrooms. Then my staff does a site by site inventory. The entire process takes until mid-April.

Member Chavez – What I am getting at is I don't want students to be out of a classroom come August.

Karin Temple – That is our priority as well. The general contractor has committed to having these completed for the start of school. Schools do have contingency plans in case the project take another path.

Member Chavez – We get the data around December and we do these projections. I know in the past we have done some shifting around once the students go back to school, has that changed considerably about how we are allocating classrooms?

Karin Temple – We do take into consideration what has happened in the past and we work closely with facilities, human resources and school leadership and come to an agreement on where the highest need for classrooms are needed.

Member Chavez – Is this contract enough to make sure that when we go back to school we aren't going to get calls saying students don't have classrooms?

Karin Temple – I want to be able to guarantee that however, we also know that due to a multiple of family decisions things may change, but wherever a student lands we will accommodate them.

Member Ryan – I just want to make something clear, Member Ashjian was making reference to the idea that lease lease-back saves money. I am not sure if he meant it is always cheaper. That is never what we said. What we said under lease lease-back is that we get a better product, often faster for the same amount or less. You had said there are other districts that do this with the plus ten percent. Can you tell us some that you might know?

Karin Temple – I would like to include that in a board communication when I confer with my purchasing director.

Member Chavez – Without the contingency, how does that effect unforeseen construction setbacks in getting the project completed in a timely manner? In other words can you get the work done without this contingency?

Karin Temple – I am going to have Paul Rosencrans speak about the process and requirements in bringing a change order for ratification to the board.

Paul Rosencrans – Specifically, on a hard bid we cannot do change orders over ten percent so those would be brought back as ratifications because we can't stop a project.

Member Mills –The way we crafted the request for these bids, we should have crafted it so it would cover everything we needed to do to get these portables in place and that is what the bid should be for.

Karin Temple – I absolutely agree. Our bids and specifications which are very thick, are very clear as to what is required to get the work done as we have described it. The contractor commits to getting the work done for the dollar amount that he has committed to. Construction is unpredictable and if for some reason we need additional concrete ramps for example where we hadn't previously described them in the bid specifications, we would want to say go ahead and do that work, then we would bring that back to the board for ratification as a change order.

Member Ashjian – I don't have a problem with the unforeseen circumstances. The problem is when it gets back to us, after we approve the ten percent contingency, it shows up in a purchase order buried in ten pages of documents.

Member De La Cerda – Does having the change order come to the board as a ratification impede the process of the project being completed?

Karin Temple – I wouldn't describe it as impeding work, we do have the authority within ten percent of the base bid to direct work to be done. It is just another process step for our purchasing department and the board. We just need to make a decision if we want to do those extra process steps.

Member Ashjian – The old process of it coming to the board as a change order for ratification allows the general public to follow the project more clearly.

Member Chavez – I am trying to get to where we don't have a hold up of resources while we are trying to have every student in a classroom.

Member De La Cerda – That would be my concern as well. My understanding of the process previously, for a lack of a better word, was streamlined at the board's request. In the end we want to make sure you are providing for the students. Transparency is a necessity and should go without saying. I agree with Member Chavez's idea and suggestion that he stated in his comments.

Member Johnson – I agree with Member Chavez as it relates to the students. I remember asking years ago why we had so many change orders. I believe that is reason we went to the contingency being added as long as we were able to continue to show where the money was being spent. The bottom line is how will we meet the needs of these students by August? We need that transparency and we need to expedite this process.

Member De La Cerda – The ten percent that is used for the contingency component. Is that an average amount for change order bids?

Karin Temple – The ten percent contingency is a threshold. If we didn't build in a contingency we would not exceed ten percent of the base bid through change orders.

Member De La Cerda – Is that common practice throughout the state?

Karin Temple – Yes.

On a motion by Member Mills, seconded by Member Ashjian, Approval of the Base Bid of \$1,295,000 to Davis Moreno Construction, Inc. without the contingency, *failed* on a roll call vote of 3-3-1 as follows: AYES: Members Ashjian, Chavez, and Mills. Noes: De La Cerda, Ryan and President Johnson. Absent: Member Davis.

A second motion was made by Member Chavez.

On a motion by Member Chavez, seconded by Member De La Cerda, Approval of the Base Bid, plus contingency to Davis Moreno Construction, Inc. with the proviso that the change orders are submitted to the board as an agenda item for ratification, was *approved* on a roll call vote of 6-0-1 as follows: AYES: Members Ashjian, Chavez, De La Cerda, Mills, Ryan and President Johnson. Absent: Member Davis.

Unscheduled Oral Communication

For the record no individuals addressed the Board on the topic listed on this agenda.

Adjournment

With no further business to come before the Board of Education at this time, President Johnson declared the meeting adjourned at 5:38 p.m.