

NEAH-KAH-NIE SCHOOL DISTRICT 56
Regular Board Meeting 6:30 PM
Executive Session at the Conclusion of the Regular Meeting
December 12, 2016
Neah-Kah-Nie District Office Board Room

OFFICIAL MINUTES

Present

Present

Board Members

Terry Kelly, Chairman
Pat Ryan, Vice Chair (absent)
Lisa Hooley
JoDee Ridderbusch
Trisha Hixson
Carol Mahoney
Michele Aeder (absent)

District Office Staff

Paul Erlebach, Superintendent
Mark Sybouts, Business Manager
Kathie Sellars, Administrative Assistant

Student Representative

Isis Breazile (absent)

CALL TO ORDER

Call to Order

The regular meeting of the Board of Directors of the Neah-Kah-Nie School District was called to order at 6:29 p.m. by Chairman Terry Kelly. Mr. Kelly welcomed staff and patrons of the District. All present stood for the flag salute,

APPROVE AGENDA

Approve Agenda

M-Hooley/2nd Mahoney to approve the agenda as presented. Motion carried unanimously.

Motion to Approve

VOLUNTEER OF THE MONTH: Nola Smith, Nominated by Nehalem Elementary School
Mr. Kelly read a prepared statement from Kristi Woika and her staff recognizing Ms. Smith for the many things she does for the students and staff at Nehalem Elementary School. Mr. Erlebach presented Ms. Smith with a certificate of appreciation.

Volunteer of the Month

NEAH-KAH-NIE SCHOOL DISTRICT TREASURE AWARD

Treasure Awards

Mr. Kelly introduced Karla Watkins from Neah-Kah-Nie Middle School as the first Neah-Kah-Nie Treasure Award winner. Mr. Erlebach shared that Ms. Watkins will receive a plaque and gift certificate at a student assembly on Friday. Mr. Lawyer stated that he was in another middle school today and looked around and noticed that they do not have a Karla. Neah-Kah-Nie Middle School is always clean. Mr. Lawyer stated that he really appreciates Karla and her team and all the work they do. Mr. Baertlein shared that as someone who works directly with Karla, she has that whole middle school building and cleans it herself in an eight hour shift and does not complain. There is not a more dedicated person than Karla Watkins. Mr. Erlebach shared that Shari Scholerman was the other Neah-Kah-Nie Treasure Award recipient. Shari will be recognized on Friday at Nehalem Elementary School.

PUBLIC HEARING ON NEHALEM ELEMENTARY CONSTRUCTION MANAGEMENT GENERAL CONTRACTOR FOR SEISMIC UPGRADES

Public Hearing on
Nehalem Elementary
Construction
Management General
Contractor (CMGC) for
Seismic Upgrades

Mr. Kelly opened the public hearing at 6:39 p.m. He also introduced Mark Smith from ZCS Engineering who is the contractor that submitted the grant for the seismic upgrades. The board

will need to approve the Construction Management General Contractor (CMGC), but a public hearing is required to move to this type of process. Mr. Sybouts stated information from the finding of facts. He shared that we will be using an open, competitive process to select the contractor for the project. The finding of fact is attached to these minutes.

Public Comment

PUBLIC COMMENT:

Shawn Grimes was curious about the rebar that is absent in the foundation.

Kathy Kammerer asked about timing and packing up and moving the necessary items in the library. Mr. Baertlein stated that he would be meeting with staff next month.

Mr. Kelly asked if middle school students, who are always looking for community service hours, might be able to assist with packing up classrooms and or the library. Mr. Lawyer stated that it might be a possibility. Mr. Sybouts added that it will depend on the timing and what is going on at that time in the project.

Mr. Baertlein asked Mark Smith of ZCS if he had the asbestos report. Mr. Smith stated that he did not have a hard copy but he would email to Mr. Baertlein.

Motion to Approve
CMGD

M-Hooley/2nd Mahoney to Approve the CMGC method of contracting for the seismic upgrades to Nehalem Elementary School. Motion carried unanimously.

Public Hearing
Adjourned

The public hearing was closed at 7:00 p.m.

Consent Agenda

CONSENT AGENDA

- A. NKN SD and TBCC Joint Work Session Notes and November 14, 2016 Regular Board Meeting Minutes
- B. Personnel Report
- C. Approve 2016-2017 Budget Calendar
- D. Approve Neah-Kah-Nie High School Surplus Materials
Approve out of state travel for Neah-Kah-Nie High School Wrestling Team to travel to Cathlamet, WA – **added at the meeting**

Motion to Approve

M-Hixson/2nd Hooley to approve the consent agenda with the addition of the out of state travel for the wrestling team. Motion carried unanimously.

Communications

COMMUNICATIONS

- A. Oral Communication
 - 1. Public Input
None at this time
 - 2. Student Input
None at this time
 - 3. Staff Input

Kathy Kammerer stated that NES had a really great book fair.

B. Written Communications

Mr. Kelly reviewed the various written communications.

Reports

REPORTS

None at this Time

UNFINISHED BUSINESS

Unfinished Business
NKN Community
Track Update

Neah-Kah-Nie School District Community Track Update, Steve Baertlein

Mr. Baertlein provided board members with an update on the Neah-Kah-Nie High School Community Track project. He reviewed the changes that were presented to the project team at the December 2nd meeting. The Board also discussed the increased cost of the project. The cost has risen from \$1,748,763 to \$2,039,972. The major sources of increase are listed below.

- New paving, fencing and gates at the main entry area
- Site utilities, including additional drainage to alleviate water that is currently draining onto and across the track from the parking lot and road. Additional perforated pipe and drain rock between the parking lot and track facility
- The addition of the slot/trench drain system at the D zones, not accounted for in the original cost estimate, and the new utilities for the concession building
- Site lighting – two new parking lot lights to cover dark and unsafe areas in the south portion of the parking lot. New restroom/concession lighting

Discussion occurred. There will be another meeting on January 25th at 11:00 a.m. at the District Office. This meeting will be advertised as a Board Work Session.

The District asked the board for a vote on the scope of project.

Motion to Approve
Scope of Project

M-Mahoney/2nd Hixson to accept the summary cost estimate from Cameron McCarthy for the track project at the estimated cost of \$2,039,972. Yes: Kelly, Mahoney, Hixson and Ridderbusch. No: Hooley. Motion carried.

Nehalem Elementary School Seismic Upgrade, Mark Sybouts

This item was discussed during the public hearing.

New Business

NEW BUSINESS

Policy Adoptions

A. Board Policy Adoptions

1. BBAA - as presented
2. BBC - as presented
3. BD/BDA - as amended
4. BDC - as presented
5. BFC - as amended
6. ECACB - as amended
7. JHCA/JHCB - as proposed – the board discussed the required Oregon State

mandate for dental screenings for students who are 7 years old or younger and have begun their educational career.

New Business
Continued

8. LBEA - as amended
9. GBA-AR - as amended

M-Hooley/2nd Hixson to approve the board policies as proposed. Motion carried unanimously.

Motion to Approve

Fiscal

FISCAL

Payment of Bills

Payment of Bills

No board member raised an issue with any of the bills that were paid in the month of November.

Fiscal Summary Sheet

Fiscal Summary
Sheet

Mr. Sybouts mentioned the current year property taxes in the general fund, in November we received less than in prior years, that was just a timing issue with regard to when the payment was received by the district.

Transportation Cost Analysis

Transportation Cost
Analysis

Mr. Sybouts stated that we did this five years ago for the first time. It is required by state law before we can publish a Request for Proposal (RFP) to contract out for transportation services. We have to do this analysis to see what it would cost us to provide our own transportation vs. contracting out. Mr. Erlebach shared that he would recommend to the board that we do put out an RFP for transportation services. He shared that he is all in favor of First Student, but we should still send out the RFP to see what we get back.

SUGGESTIONS AND COMMENTS

Suggestions and
Comments
Superintendent

Superintendent

Mr. Erlebach shared the following:

- We have 20 high school students with Aspire mentors. We have more mentees than mentors
- Mudd-Nick foundation members and he interviewed students for the Partners of America Costa Rica exchange program
- Board members and parents received the school and district report cards
- This Thursday he and Stacey Dills along with the principals will meet with a representative from ODE, we are part of a grant to help raise our ELL scores
- We are serving the highest number of special education students than we have in the last several years. Right now we have 110 students. It is the highest population since we have been tracking over the last 9 years
- Some Garibaldi and Nehalem teachers are piloting a math curriculum called I-Ready
- Mr. Baertlein, Mr. Sybouts, He and the principals have updated the capital improvement plan
- Worked with the principals on the Long Range Plan (LRP)
- We have replaced the fuel tank at Garibaldi, we should look into doing the same at Nehalem

- Had one inclement weather day last week. We have four built in weather days in the calendar to cover any weather related closures.

Suggestions and
Comments Continued
Superintendent

Board

Board

No comments at this time.

Personnel

PERSONNEL

NON LICENSED PERSONNEL INFORMATION - Informational Only

1. Classified Hiring:

- Connie Hall as Garibaldi Grade School 3.5 hr IA
- Shawn Grimes as Garibaldi Grade School Sp Ed IA

Suspend Regular
Board Meeting

SUSPEND REGULAR BOARD MEETING

Mr. Kelly suspended the regular board meeting at 8:19 p.m. to convene executive session.

Executive Session

EXECUTIVE SESSION

Mr. Kelly called executive session to order at 8:21 p.m. pursuant to ORS 192.660 (2)(e), to discuss an offer on some property the district owns. Mr. Kelly adjourned executive session at 8:22 p.m.

Reconvene Regular
Session

RECONVENE REGULAR SESSION

Mr. Kelly reconvened regular session at 8:22 p.m. to request a motion for a decision on the offer presented by Bob and Carol Martyn for lot 12 in the Juniper Creek Development.

M-Ridderbusch/2nd Hooley to decline the offer from Bob and Carol Martyn for lot 12 in the Juniper Creek Development in the amount of \$60,000. Motion carried unanimously.

Motion to Decline
Offer on Lot 12 in
Juniper Creek
Development

ADJOURN

Hearing nothing more to come before the board the meeting was adjourned at 8:22 p.m.

Adjourn

**PROPOSED FINDINGS SUPPORTING AN EXEMPTION FROM COMPETITIVE
BIDDING REQUIREMENTS AND USE OF THE CONSTRUCTION
MANAGER/GENERAL CONTRACTOR METHOD OF PROCUREMENT FOR
NEHALEM ELEMENTARY SEISMIC REHABILITATION**

Before the Local Contract Review Board,

In the Matter of Exemption)	FINDINGS OF FACT
Request of)	
Neah-Kah-Nie School District)	
Nehalem Elementary)	
Seismic Rehabilitation)	

ORS 279C.335(1) requires, with certain exceptions, that all Public Improvement contracts be based on competitive bids and, under ORS 279C.375, awarded to the lowest responsive and responsible bidder. ORS 279C.335(2) permits the Local Contract Review Board, which in this case is the Neah-Kah-Nie School Board, to grant, under certain conditions, specific exemptions from the requirement for competitive bidding upon the approval of specified findings.

OAR 137-049-0620(1), allows the Local Contract Review Board to exempt a Public Improvement contract from the requirements to be competitively bid, provided written findings supporting the use of non-competitive bid process show compliance with OAR 137-049-0600 to 137-049-0690 and applicable statutes.

The hearing for review of these findings will be held at 6:30 PM on December 12, 2016 at the Neah-Kah-Nie District Office, 504 N Third Avenue, Rockaway Beach, OR 97136, as published in the public notice section in the Daily Journal of Commerce on November 28, 2016 and the Tillamook Headlight-Herald on November 30, 2016.

**I
BACKGROUND**

Neah-Kah-Nie School District received a grant through Oregon's Seismic Rehabilitation Grant program for a total value of \$1,396,000. The purpose of the grant is to seismically retrofit the Nehalem Elementary building to meet or exceed the code requirements outlined in ACSE41-13. It was determined during the initial grant application that the building would be renovated during the rehabilitation work as permitted by budget. All renovated areas will increase Life and Safety elements.

This Project is limited to the funding outlined in the grant package, additional funding is not available. The current budget does not reflect a contingency typically allotted for a project of this size and scope. It is the recommendation of the School District to

procure the Project using the CM/GC contracting methodology. ORS 279C.332(3) identifies the CM/GC methodology as an alternative contracting method under ORS 279C.335, which allows a contracting agency to procure construction-related services that include, among other things listed in ORS 279C.332(3), a construction manager/general contractor's (a) functioning as a member of a project team that includes the District, the Project Architect or Engineer and other consultants, (b) reviewing and analyzing the project design in order to suggest changes to minimize potential errors, delays, unexpected costs and other problems during construction, (c) estimating construction, materials, labor and other costs for the Project, (d) establishing a fixed price, a guaranteed price or other maximum price for the Project, constructing portions of the Project and subcontracting portions to other contractors, and (f) coordinating and overseeing the construction process. In this Project, the CM/GC contract allows the School District to bring the General Contractor on board during the initial design phase providing value engineering services and a Guaranteed Maximum Price during the design phase in lieu of during the bid phase after full design documents have been established.

The Neah-Kah-Nie School District proposes utilizing the Construction Manager/General Contractor contract delivery methodology to obtain proposals for the Nehalem Elementary Seismic Rehabilitation.

The exempted procurement process for this Project includes the following:

- 1) A Request for Proposals (RFP) process pursuant to OAR 137-049-0640 to procure a CM/GC contract with a general contractor.

II

FINDINGS REGARDING PROCUREMENT OF CM/GC SERVICES

ORS 279C.335(2) requires that an agency make certain findings as part of exempting public improvement contracts or classes of public improvement contracts from competitive bidding, as is the case with the procurement of CM/GC services. Pursuant to ORS 279C.330(2), the term "findings" as used in ORS 279C.335(2) means "the justification for a conclusion that a contracting agency, in seeking an exemption from the competitive bidding requirement of ORS 279C.335(1), reaches based on the considerations set forth in ORS 279C.335(2). Those required findings, generally defined as "findings regarding competition" and "findings regarding significant cost savings", are addressed below.

A. Findings Regarding Competition

ORS 279C.335(2) (a) requires an agency to find that: *"It is unlikely that the exemption will encourage favoritism in the awarding of public improvement contracts or substantially diminish competition for public improvement contracts."*

The Neah-Kah-Nie School District finds that selecting the contractor through an exempted competitive proposal selection process in accordance with OAR 125-249-0620 and 125-249-0630 will not inhibit competition or encourage favoritism. This finding is supported by the following facts:

- 1) The proposed CM/GC alternative contract delivery methodology is a competitive proposal process that allows the Neah-Kah-Nie School District to select a firm to Seismically Rehabilitate Nehalem Elementary School at the best possible value. Simple price competition is not feasible due to technical complexity associated with a seismic rehabilitation Project of this nature. The technical complexity of the installation of certain structural systems within the rehabilitation plan lends it to specialized contractors with knowledge of these systems.
- 2) The CM/GC contractor will be selected through an open and competitive proposal process as prescribed by ORS 279C.400 to 410 and related administrative rules, including but not limited to formal public advertising of the solicitation, an award made based upon identified selection criteria described in the RFP, and an opportunity to protest any such award.

B. Findings Regarding Significant Cost Savings

ORS 279C.335(2)(b) requires an agency to find that *“Awarding a public improvement contract under the exemption will result in substantial cost savings to the public contracting agency.”* This finding is supported by the following facts:

- a. How many persons are available to bid;
 - 1) There are limited qualified specialized contractors to perform the scope of work associated with this Project.
- b. The construction budget and the projected operating costs for the completed public improvement;
 - 1) Limited or no additional funding is available for the Nehalem Elementary Seismic Rehabilitation above and beyond the awarded grant funding source.
- c. Public benefits that may result from granting the exemption;
 - 1) Utilization of the CM/GC contract delivery process will allow the School District to deliver the most comprehensive project for the allotted funding.
- d. Whether value engineering techniques may decrease the cost of the public improvement;
 - 1) This work integrates specialized equipment and personnel to properly install certain items of the rehabilitation. A requirement to competitively bid this type of work would create additional expenses and lead to uncertainty regarding the installation of said items.

- e. The cost and availability of specialized expertise that is necessary for the public improvement;
 - 1) An exemption from competitive bidding will allow the Neah-Kah-Nie School District to take advantages of specialized general contractors knowledgeable in the rehabilitation of existing structures and value engineering the Project during the design phase. This will allow the Neah-Kah-Nie School District to be provided the best value and potentially eliminate costly change orders resulting from unknowns in the field.

- f. Any likely increases in public safety;
 - 1) There are currently concerns with public safety during the scheduled work as Nehalem Elementary School will remain functional during the proposed work. The CM/GC will assist with the development of a safety plan.

- g. Whether granting the exemption may reduce risks to the contracting agency, the state agency or the public that are related to the public improvement;
 - 1) Risks associated with contract overruns, schedule increases and unqualified contracts are greatly reduced with the granting of the exemption to competitive bidding.

- h. Whether granting the exemption will affect the sources of funding for the public improvement;
 - 1) Granting the exemption will not affect funding sources for Nehalem Elementary Seismic Rehabilitation.

- i. Whether granting the exemption will better enable the contracting agency to control the impact that market conditions may have on the cost of and time necessary to complete the public improvement;
 - 1) The specialty products, services and supplies needed under this contract are not particularly impacted by market conditions.

- j. Whether granting the exemption will better enable the contracting agency to address the size and technical complexity of the public improvement;
 - 1) Implementation of this Project involves a number of issues of technical complexity. Special skills and expertise are needed for optimizing the related foundation strengthening and the seismic strengthening and element installation.

- k. Whether the public improvement involves new construction or renovates or remodels an existing structure;
 - 1) The public improvements of Nehalem Elementary Seismic Rehabilitation will renovate and seismically rehabilitate the building.

- i. Whether the public improvement will be occupied or unoccupied during construction;
 - 1) The project improvements will occur while the building is occupied by summer staff. Parts of the Project may occur during normal school hours while students are in classes.

- m. Whether the public improvement will require a single phase of construction work or multiple phases of construction work to address specific project conditions;
 - 1) It is the intent of Neah-Kah-Nie School District to construct the Project under a single phase of the Project.

and

- n. Whether the contracting agency or state agency has, or has retained under contract, and will use contracting agency or state agency personnel, consultants and legal counsel that have necessary expertise and substantial experience in alternative contracting methods to assist in developing the alternative contracting method that the contracting agency or state agency will use to award the public improvement contract and to help negotiate, administer and enforce the terms of the public improvement contract.
 - 1) Neah-Kah-Nie School District will enlist the assistance of ZCS Engineering, Inc. as the Project Manager to assist with the enforcement of the terms of the scope of work associated with public improvement contract. Neah-Kah-Nie School District will enlist the Hungerford Law Firm, L.L.P. to assist the District with legal counsel and legal enforcement of the public improvement contract.

**III
SUMMARY**

Use of the CM/GC method of contracting for the Nehalem Elementary Seismic Rehabilitation is an appropriate use of that alternative contracting method under OAR 137-049-0620. Additionally, an exemption from competitive bidding requirements is justified under the criteria outlined in ORS 279C.330, findings have been developed in compliance with ORS 279C.335(2), and the Neah-Kah-Nie School District will perform the post project evaluation required by ORS 279C.355. Based upon previously listed findings, the Neah-Kah-Nie School District specifically concludes that:

- 1) It is unlikely the exemption will encourage favoritism in the awarding of public contracts or substantially diminish competition for public contracts;
and
- 2) The exemption will result in substantial cost savings to the affected Neah-Kah-Nie School District for the services provided.

The Neah-Kah-Nie School District submits that this Request meets all of the criteria above and requests approval of this Exemption. If you have any questions, please call Mark Sybouts at 503-355-3434.

Mark Sybouts
Neah-Kah-Nie School District
Business Manager

Date

Reviewed by Neah-Kah-Nie School District Attorney:

Reviewed by Legal Counsel

Date