

BOARD OF EDUCATION
Portland Public Schools
Special Meeting
April 9, 2012

Cleveland High School Cafeteria
3400 SE 26th Avenue
Portland, Oregon 97202

***Note:** Those wishing to speak before the School Board must sign the citizen comment sheet prior to the start of the regular meeting. No additional speakers will be accepted after the sign-in sheet is removed, but citizens are welcome to sign up for the next meeting. While the School Board wants to hear from the public, comments must be limited to three minutes. All citizens must abide by the Board's Rules of Conduct for Board meetings.*

Citizen comment related to an action item on the agenda will be heard immediately following staff presentation on that issue. Citizen comment on all other matters will be heard during the "Remaining Citizen Comment" time.

This meeting may be taped and televised by the media.

PUBLIC HEARING AND WORK SESSION AGENDA

1. **CITIZEN COMMENT ON THE SUPERINTENDENT'S PROPOSED 2012-2013 BUDGET** 5:00 pm
2. **BREAK** 7:00 pm
3. **BOARD BUDGET DISCUSSION** 7:20 pm
4. **ALTERNATIVE CONTRACTING METHOD: BURNER BOILER PROJECT** (action item) 8:45 pm
5. **BUSINESS AGENDA** 9:00 pm
6. **ADJOURN** 9:05 pm

The next meeting of the Board will be a public hearing on the proposed 2012-2013 Budget on **Wednesday, April 11, 2012, at 6:00pm, in the cafeteria of Roosevelt High School.**

Portland Public Schools Nondiscrimination Statement

Portland Public Schools recognizes the diversity and worth of all individuals and groups and their roles in society. All individuals and groups shall be treated with fairness in all activities, programs and operations, without regard to age, color, creed, disability, marital status, national origin, race, religion, sex, or sexual orientation.
Board of Education Policy 1.80.020-P



PORTLAND PUBLIC SCHOOLS

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SUPERINTENDENT'S RECOMMENDATION TO THE BOARD AND STAFF REPORT

ALTERNATIVE CONTRACTING METHOD - BOILER BURNER PROJECT

Board Meeting Date: April 9, 2012

Executive Committee Lead: C.J. Sylvester, COO

Department: Facilities and Asset Management

Staff Lead: Tony Magliano, Director – FAM

District Priority: Design and Implement Capital Improvement Plan

I. ISSUE STATEMENT

District staff has developed a strategy to complete conversion of forty-seven (47) of our school sites from heavy fuel oil (PS300) or diesel to natural gas. This strategy involves utilizing an alternative contracting method – Construction Manager/General Contractor (CM/GC). In 2009, the District successfully executed a Construction Manager/General Contractor (CM/GC) contract and completed a solar roofing project at nine sites.

II. BACKGROUND

Portland Public Schools ("District") has over 100 facilities, 49 of these facilities are heated primarily by PS300 or diesel through oil-burning boilers.

There are 47 oil burning sites (see Attachment A to the Resolution) where the change-out of the boiler fuel from oil to natural gas offers substantial operating cost savings.

On January 17, 2012 the Board of Education ("Board") adopted Resolution No. 4541 authorizing conversion of 47 facilities from fuel oil or diesel boiler burners to natural gas boiler burners predicated on Board authorization of a financing plan.

On February 13, 2012 the Board adopted Resolution No. 4545 authorizing the staff to obtain financing for the conversion of boiler burners from fuel oil to natural gas.

In order to best take advantage of this opportunity and meet our 2012/2013 construction schedule, the District must follow an alternative procurement process allowed by ORS 279C and the District's Public Contracting Rules using a Construction Manager/General Contractor (CM/GC) form of agreement.

District Public Contracting Rules and ORS 279.C require that the District create findings for the Board to consider and accept in order to approve an exemption from the Competitive Bidding process.

The Board is required to hold a public hearing to take comments on the draft findings for the exemption, and the District is required to publish a notice of the hearing at least 14 days in advance of the hearing.

The required notices were published on March 26, 2012, and staff's findings for the Board's consideration are outlined in the attached Resolution.

The selected CM/GC will provide the District with a Guaranteed Maximum Price ("GMP") for the construction.

The CM/GC contract will require that Minority Women and Emerging Small Business ("MWESB") and Bureau of Labor and Industry ("BOLI") requirements be met.

The CM/GC contract will further require subcontractors to competitively bid boiler conversions and related project work.

III. RELATED POLICIES/BEST PRACTICES

This action applies to the District Strategic Framework foundational element "Stable Operating Model".

The conversion of these burners aligns the District with its ongoing sustainability and energy conservation efforts.

This method of procurement aligns with District Public Contracting Rules and ORS 279C.

IV. FISCAL IMPACT

Because the work will be conducted between June and October 2012, the Board requires a contractor who can expeditiously and safely complete the work. The CM/GC method alleviates financial risk due to minimizing delay and requests for additional work. An experienced contractor will minimize school disruption and reduce outside commissioning and oversight costs. Reduced risk provides a significant value and cost savings to the District. Finally, the Project will reduce the District's long-term fuel costs.

In accordance with ORS 279C and the District's Public Contracting Rules, staff will prepare a formal Post-Project evaluation. The purpose of this evaluation is to determine whether it was actually in the District's best interest to use an Alternative Contracting Method. The evaluation must be delivered to the Contract Review Board of the District as applicable within 30 days of the date the District "accepts" the Public Improvement Project.

V. COMMUNITY ENGAGEMENT

District staff continues to interact with the public regarding our facilities including past and future energy saving projects.

VI. BOARD OPTIONS

To direct staff to complete this work using the CM/GC form of agreement.

To not direct staff to complete this work using the CM/GC form of agreement and to competitively bid this work.

VII. STAFF RECOMMENDATION

Staff recommends the Board adopt the findings in the attached resolution, grant an exemption to the competitive bidding process, and approve the CM/GC alternative contracting method for converting the forty-seven school sites identified in Attachment A to the Resolution to natural gas burners.

VIII. TIMELINE FOR IMPLEMENTATION/EVALUATION

Design Phase – 3/1 to 5/20

CM/GC Solicitation 3/26 – 4/17

Construction Phase – 5/5 to 10/15

Annual utility cost savings will be reported at the end of each fiscal year to highlight and evaluate project outcomes.

I have reviewed this staff report and concur with the recommendation to the Board.



Carole Smith
Superintendent
Portland Public Schools

4.2.2012
Date

ATTACHMENTS

Resolution – Capital Renewal Project: Authorization for Alternative Procurement Process

BOARD OF EDUCATION
SCHOOL DISTRICT NO. 1J, MULTNOMAH COUNTY, OREGON

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Purchases, Bids, Contracts

The Superintendent RECOMMENDS adoption of the following items:

Numbers 4573 and 4574

RESOLUTION No. 4573

Revenue Contracts that Exceed \$25,000 Limit for Delegation of Authority

RECITAL

Portland Public Schools ("District") Public Contracting Rules PPS-45-0200 ("Authority to Approve District Contracts; Delegation of Authority to Superintendent") requires the Board of Education ("Board") to enter into and approve all contracts, except as otherwise expressly authorized. Contracts for \$25,000 or more per contractor are listed below.

RESOLUTION

The Superintendent recommends that the Board approve these contracts. The Board accepts this recommendation and by this resolution authorizes the Deputy Clerk to enter into agreements in a form approved by General Counsel for the District.

NEW CONTRACTS

No New Contracts

AMENDMENTS TO EXISTING CONTRACTS

No Amendments to Existing Contracts

INTERGOVERNMENTAL AGREEMENTS / REVENUE ("IGA/Rs")

Contractor	Contract Term	Contract Type	Description of Services	Contract Amount	Responsible Administrator, Funding Source
Multnomah County Health Department	07/01/11 through 12/31/12	IGA/R 58981	Grant and Madison HS & Roosevelt Campus: Renovation of health clinics; paid for through a U.S. Department of Health and Human Services grant to County.	\$244,900	T. Magliano Fund 205 Dept. 9999 Grant G1221

LIMITED SCOPE REAL PROPERTY AGREEMENTS

No Limited Scope Real Property Agreements

N. Sullivan

RESOLUTION No. 4574

Personal / Professional Services, Goods, and Services Expenditure Contracts
Exceeding \$150,000 for Delegation of Authority

RECITAL

Portland Public Schools ("District") Public Contracting Rules PPS-45-0200 ("Authority to Approve District Contracts; Delegation of Authority to Superintendent") requires the Board of Education ("Board") enter into contracts and approve payment for products, materials, supplies, capital outlay, equipment, and services whenever the total amount exceeds \$150,000 per contract, excepting settlement or real property agreements. Contracts meeting this criterion are listed below.

RESOLUTION

The Superintendent recommends that the Board approve these contracts. The Board accepts this recommendation and by this resolution authorizes the Deputy Clerk to enter into agreements in a form approved by General Counsel for the District.

NEW CONTRACTS

Contractor	Contract Term	Contract Type	Description of Services	Contract Amount	Responsible Administrator, Funding Source
RMC Corporation	04/01/12 through 09/25/12	Personal / Professional Services PS 59043	District-wide: Modification of existing High School Graduation Initiative database to include GEAR UP grant requirements, including timeliness, data collection, and data filing issues.	\$245,000	M. Goff Fund 205 Dept. 5445 Grant G1188

AMENDMENTS TO EXISTING CONTRACTS

Contractor	Amendment Term	Contract Type	Description of Services	Amendment Amount, Contract Total	Responsible Administrator, Funding Source
Albina Fuel Company	03/12/12 through 03/11/13 Year 4 of Contract	Material Requirements MR 57114 Amendment 3	District wide: One-year extension of contract for heating oil, as needed.	\$1,113,402 \$8,912,828	T. Magliano Fund 101 Dept. 5596

INTERGOVERNMENTAL AGREEMENTS ("IGAs")

Contractor	Contract Term	Contract Type	Description of Services	Contract Amount	Responsible Administrator, Funding Source
Multnomah Education Service District	07/01/11 through 06/30/13	IGA 59047	District-wide: MESD will provide Medicaid Administrative Claiming services for District.	\$168,000	S. Lewis Fund 101 Dept. 6299

N. Sullivan

Other Matters Requiring Board Action

The Superintendent RECOMMENDS adoption of the following item:

Number 4575

RESOLUTION No. 4575

Capital Renewal Project: Boiler Conversions Authorization for Alternative Procurement Process

RECITALS

- A. The 2007 Reshape School public summit resulted in five guiding principles for Portland Public Schools ("District") to use in future decision-making regarding school buildings.
- B. On October 16, 2008, by way of Resolution No. 3987, the Board of Education ("Board") adopted the Five Guiding Principles resulting from the 2007 Reshape School public summit.
- C. The third guiding principle states, "We must invest in sustainable facilities."
- D. For the last decade the District has implemented and completed numerous environmental initiatives including over 380 energy efficiency projects through the SB1149 Energy program; nine large scale solar projects with a capacity of over 757KW; six Solar 4R Schools education solar projects; a 2.5KW wind turbine at Skyline Elementary school; certification of 43 schools through the Oregon Green Schools Association; 35 sites participating in the 2011 Electricity Conservation Incentive Program; extensive storm water management and school garden projects; district-wide fluorescent lighting retrofits; PC power management; LED exit signs; over 40 boiler conversions to natural gas; as well as construction of LEED Gold and Platinum certified buildings at Rosa Parks Elementary School and the Evans Harvard High Performance classroom at daVinci Arts middle school.
- E. District environmental projects currently underway include: (1) the Recovery Zone Bond program which includes an Energy Service Performance Contract; when completed these projects in total are estimated to save the District more than \$1,200,000 annually; (2) six level II SB1149 energy audits, (3) a compost pilot program, (4) an Energy Center behavioral pilot program, and (5) over 50 sites participating in the 2012 Electricity Conservation Incentive Program.
- F. In 2009, the District successfully executed a Construction Manager/General Contractor (CM/GC) contract and completed a solar roofing project at nine sites.
- G. The Board is designated as the Local Public Contract Review Board under ORS 279A.060.
- H. ORS 279C.335 (2) authorizes the Board to exempt certain public contracts or classes of contracts from the competitive bidding process.
- I. In 2010, the District adopted Public Contracting Rules providing guidance for the use of Alternative Contracting Methods for Public Improvement Contracts, including the CM/GC method of procurement.
- J. The District intends to complete forty-seven boiler conversion projects (hereafter "Project") between June and October 2012, with an estimated budget of \$9.1M. The schools requiring boiler conversion work are identified on Attachment A. to this resolution.
- K. There are significant financial advantages to the District:
 - a. While the goal is to achieve a \$1.8M savings in FY 2012-13, staff is using a conservative estimate of \$1.2M based on only completing 66% of the conversions and therefore only realizing 66% of the savings benefit for FY 2012-13. Combined utility and permitting savings are estimated to escalate through 2019 to over \$2.2M annually.

- b. The simple payback for this project is just over five years, based on dividing the total project cost of \$9.1M by the estimated first year utility savings of \$1.8M.
 - c. Required boiler maintenance will be greatly reduced thereby allowing custodians to allocate more time to operate and otherwise maintain these schools.
 - d. Staff time currently devoted to the management and tracking of this fuel source can be reallocated to other district priorities.
 - e. The district will increase its capital value at these sites.
 - f. The district will decrease its risk associated with fuel oil distribution and potential contamination.
 - g. The district will decrease its budget and operational risk associated with rising oil prices and faltering production.
- L. To maximize the savings benefit to the general fund for FY12/13, avoid disruption to the school year, and to reduce hazard to students, the Project must be started at the earliest opportunity and completed no later than October 15th, 2012. Given this time line, an alternate contracting method enables the District to meet this schedule in contrast to a standard competitive procurement process.
- M. Other operating advantages also promote the District's use of an alternative procurement process:
- a. The District can stipulate to what level Minority Women and Emerging Small Businesses (MWESB) are utilized by the General Contractor through sub-contracting.
 - b. The District benefits from the General Contractor's particular skills, experience, and expertise in the early phases of developing this unique and complex Public Improvement Project.

RESOLUTION

1. The Board hereby exempts the contracts as described in these recitals and Attachment A from the competitive bidding requirements of ORS Chapter 279C and the District's Public Contracting Rules. The Board directs the contract be awarded in accordance with the District's Alternative Contracting Methods through a Construction Manager/General Contractor (CM/GC) form of procurement.
2. Pursuant to ORS 279C.335(2) and the District's Public Contracting Rules, this exemption is based on the following findings:
 - a. The Board finds this contract exemption is unlikely to encourage favoritism in the award of public contracts because the District utilizes a Request for Proposal (RFP) process to select the CM/GC firm. Formal competitive advertisement of the RFP includes public notice and disclosure of the planned Alternative Contracting Method. The award will be based on identified selection criteria and contractors will be afforded an opportunity to protest the process and the award. Once selected, the CM/GC selects subcontractors using a competitive bid process prescribed in the District's Public Contracting Rules.
 - b. The Board finds that authorizing this contract exemption will result in a substantial cost savings to the District. The CM/GC procurement method will allow the District to bring a General Contractor on board earlier in the phases of project development where the Project will benefit from the General Contractor's skills, experience and expertise.

Engaging the General Contractor earlier will help identify unforeseen conditions early that typically result in change orders under other procurement methods. The Board requires an experienced contractor to ensure that this complex Project can be completed expeditiously between June and October 2012; resulting in more boilers getting converted before the start of the heating season in order to achieve greater fuel savings in the FY12/13 budget.

3. Pursuant to ORS 279C.330, the Board considered the following factors in making the above findings:
 - a. Operational, Budget, and Financial Data: Because the work will be conducted between June and October 2012, the Board requires a contractor who can expeditiously and safely complete the work. The CM/GC method alleviates financial risk due to minimizing delay and requests for additional work. An experienced contractor will minimize school disruption and reduce outside commissioning and oversight costs. Reduced risk provides a significant value and cost savings to the District. Finally, the Project will reduce the District's long-term fuel costs.
 - b. Public Benefits: The public benefits include the cost savings noted above. Expeditious completion of the Project will ensure that heating is restored in buildings prior to the start of the heating season. In addition, PPS is the largest consumer of heavy fuel oil (PS300) in the Portland Metro area, annually consuming about one million gallons and emitting nearly 10,000 equivalent metric tons of CO₂ into neighborhood communities throughout Portland. By replacing burners in these boilers the District will reduce its carbon emission levels released from these boilers by almost 50%.
 - c. Value Engineering: The CM/GC process minimizes errors in contract drawings and specifications, develops constructible solutions to complex projects, and allows for accurate scheduling and staffing. This process will enable the contractor to work with the District to minimize project costs. The CM/GC process also enables the District to recover any potential cost savings.
 - d. Specialized Expertise Required: As previously noted, this Project is complex and needs to be completed in a short time frame. The CM/GC process will enable the District to utilize a General Contractor with demonstrated expertise in managing, scheduling, and performing these kinds of projects in these types of conditions in a satisfactory manner.
 - e. Public Safety: Selection of a contractor with experience will ensure the highest level of student and public safety. Completing as many conversions as possible during summer 2012 when school is not in session will avoid potential safety and security problems that could occur when construction is conducted with students and staff present.
 - f. Market Conditions: Existing market conditions should result in a very competitive price for the work.
 - g. Technical Complexity: The accelerated schedule and complex scope of work for this project involves several trade disciplines and will require a sophisticated approach to scheduling and logistics. The sequencing of work needs to be precisely scheduled with hazardous materials abatement, demolition of old oil piping system, change-out of burners, tank decommissioning, chimney modifications and installation of new gas meters and piping. PPS is planning a direct purchase of the oil burners which will be assigned as an Owner Furnished Contractor Installed item. The schedule acceleration provided by this approach would not be as easily accommodated in a traditional design-bid-build scenario. In addition to the work on the boilers, there are other permitting and code related issues to be addressed including possible seismic work on the chimneys that reduces their height and historic review of any improvements which modify the appearance of the structure. Selecting a contractor that is familiar and

experienced with such projects it not only critical to the success of the project, but also provides a teaming approach wherein PPS, the engineer and the contractor collaborate more effectively.

- h. Funding Sources: The District will fund this Project using external financing potentially supplemented with funding the District receives through the Energy Efficient Schools Program (previously known as SB1149).
- 4. The Board hereby delegates the authority to the Superintendent or her designee to approve and execute the contract with the successful proposer and to execute the Guaranteed Maximum Price (GMP) Amendment setting the price for the contract as long as the GMP is within the budget for the project set forth in Recital J and K above. Any GMP amendment or amendment to the GMP following execution of the GMP Amendment that would cause the project to exceed the budget set forth in Recital J and K must be approved by the Board.
- 5. The Board concludes that an exemption from competitive bidding is justified pursuant to the Public Contracting Code found in ORS 279C.335 and the District's Public Contracting Rules.

C.J. Sylvester

**ATTACHMENT "A" TO RESOLUTION No. 4575
2012 Boiler Conversion Project**

Proposed Fuel Oil/Diesel Heating Sites

<i>Site Name</i>	<i>Facility Type</i>	<i>Heating Type</i>
Ainsworth	School	Fuel Oil
Applegate	Head Start/Special Ed	Diesel
Arlata	School	Fuel Oil
Atkinson	School	Fuel Oil
Beach	School	Fuel Oil
Boise-Eliot	School	Fuel Oil
Columbia (incl. Transportation)	Admin	Fuel Oil
CSC/Washington (vacant/leased)	Closed/Vacant	Fuel Oil
da Vinci/Monroe	School	Fuel Oil
Duniway	School	Fuel Oil
Faubion	School	Fuel Oil
Fernwood/Beverly Cleary	School	Fuel Oil
Glencoe	School	Fuel Oil
Hayhurst	School	Fuel Oil
Hollyrood/Beverly Cleary	School	Fuel Oil
Hosford	School	Fuel Oil
Irvington	School	Fuel Oil
Jackson	School	Fuel Oil
Kellogg (vacant)	Closed	Fuel Oil
Kenton	Leased	Fuel Oil
King	School	Fuel Oil
Lane	School	Fuel Oil
Lee	School	Fuel Oil
Lent	School	Fuel Oil
Lewis	School	Fuel Oil
Lincoln	School	Fuel Oil
Markham	School	Fuel Oil
Marshall	Admin	Fuel Oil
Meek/Alliance	School	Fuel Oil
Mt. Tabor	School	Fuel Oil
Ockley Green	School	Fuel Oil
Peninsula	School	Fuel Oil
Portsmouth/Cesar Chavez	School	Fuel Oil
Rieke	School	Fuel Oil
Rose City Park/Marysville	School	Fuel Oil
Sabin	School	Fuel Oil
Sellwood	School	Fuel Oil
Siltton	School	Fuel Oil
Skyline	School	Diesel
Stephenson	School	Fuel Oil
Sunnyside	School	Fuel Oil
Terwilliger	Closed/Vacant	Diesel
Vernon	School	Fuel Oil
Vestal	School	Fuel Oil
Wilcox	Admin	Diesel
Winterhaven/Brooklyn	School	Fuel Oil
Youngson/Holladay Center	School	Fuel Oil

Total Sites 47