

ORANGE COUNTY
BOARD OF EDUCATION

AGENDA ITEM ABSTRACT

Meeting Date: April 22, 2013

AGENDA ITEM No. 13-04-(2)-13

ACTION ITEM: (Y/N) Y

SUBJECT: Bid Award/Contract Approval: Efland-Cheeks Elementary Roof Replacement

INFO. CONTACT: Pam Jones, Interim Exec. Dir. Of Auxiliary Services PHONE: (919) 732-8126

ATTACHMENTS:

1. Bid Tabulation
 2. Contract
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PURPOSE: To consider awarding a bid and approving a contract for specific roof replacement at Efland-Cheeks Elementary School to Able Exterior, Midland, NC in the amount of \$209,000, plus any necessary repairs to roof deck that might invoke unit costs.

BACKGROUND: In 2010, the Board obtained Qualified School Construction Bonds (QSCB) to complete work at Efland Cheeks Elementary School. Work completed thus far with the funds includes:

- Improvements to the canopy and main entrance;
- Casework replacement in various classrooms within the school; and
- Restroom upgrades.

Additional capital planned work includes:

- Extending the canopy to cover the entrance by the gym; and
- Addressing the carpeting on the walls in the cafeteria; and
- Replacing the roof over the upper classrooms, kindergarten classrooms and gymnasium.

This action requests the Board award a bid for the roof work.

The roofing project was designed by The Garland Company, Inc, a firm that routinely provides this service for the District. As reflected in the attached bid tabulation, on April 16, 2013 five bids were received for the work, with Able Exterior submitting the lowest responsive bid. They are recommended for award.

A Notice to Proceed will be issued upon execution of a contract, with completion of the work to be around 40 working days. Please note however, Able Exterior has agreed to work with the District and school site staff to accommodate the student testing schedule, which will take place beginning May 14 through May 31.

FINANCIAL IMPACT: Approximately \$373,000 is available within the Efland Cheeks Elementary School QSCB project account to complete this work. These funds must be used exclusively at this site and be spent no later than January 25, 2014, which is three years following issuance of the bonds.

continued

Cost estimates for planned work mentioned earlier in this abstract will not rise to the level of the remaining QSCB funds. Staff has therefore requested The Garland Company submit a design and updated engineering estimate in order to determine the feasibility of bidding one or more of the four roof sections that have yet to be replaced. A separate bid award would be presented to the Board should this prove to be prudent.

RECOMMENDATION: The Superintendent recommends the Board award a bid and approve a contract for specific roof replacement at Efland-Cheeks Elementary School to Able Exterior, Midland, NC in the amount of \$209,000, plus any necessary repairs to roof deck that might invoke unit costs; and authorize the Chair to sign on behalf of the Board.

EFLAND CHEEKS ELEMENTARY SCHOOL						
UPPER CLASSROOMS, KINDERGARTEN CLASSROOMS, AND GYM						
4401 FULLER RD						
EFLAND NC 27243						
4/16/2013						
Contractors	ABLE	CURTIS	HAMLIN	TEAM	WAYNE	
Bid Item 1 Base Bid labor	58,000	86,971	107,054	85,590	110,000	
Bid Item 2 US Communities Materials	63,000	84,825	74,085	59,800	69,000	
Bid Item 3 Alternate bid labor	42,000	56,713	74,001	59,775	72,000	
Bid Item 4 US Communities Materials	46,000	52,749	52,051	43,700	45,000	
Repair Bad Gypsum Decking (Pyrofill)	6	20	20	15	19	
Insulation	2	2.25	10	3.5	2.5	
Wood Blocking 2"x6"	2	2	5	4.5	5.25	
Wood Blocking 2"x8"	5.75	2.25	6	5.5	6.5	
Wood Blocking 2"x10"	6.8	2.5	8	6.5	7	
Complete work	40	45	45	28	40	
Days a Week	5	5	4	5	4	
Start Work	15	30	45	14	30	
Acknowledged Addenda	YES	YES	YES	YES	YES	
Minority Forms	YES	YES	YES	YES	YES	

Rob Banks

Digitally signed by Rob Banks
 DN: cn=Rob Banks, o=The Garland Company, ou,
 email=rbanks@garlandind.com,
 c=US
 Date: 2013.04.17 07:40:55 -04'00'

OWNER-CONTRACTOR AGREEMENT

THIS AGREEMENT is made this 22nd day of April, 2013 by and between the Orange County Board of Education (herein referred to as the Owner), whose mailing address is 200 E. King Street, Hillsborough, North Carolina 27278 and Able Exterior Remodeling and Roofing, Inc. (herein referred to as the Contractor), whose mailing address is PO Box 246 Midland, North Carolina 28107. Correspondence, submittals, and notices relating to or required under this contract shall be sent in writing to the above addresses unless either party is notified in writing by the other of a change in address.

WITNESSETH:

WHEREAS, it is the intent of the Owner to obtain the services of the Contractor in connection with Efland-Cheeks Elementary School Upper Classrooms, Kindergarten Classrooms and Gym Roof Replacement. (hereinafter referred to as the "Project" or the "Work"): and

WHEREAS, the Contractor desires to perform such construction in accordance with the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the promises made herein and other good and valuable consideration, the following terms and conditions are hereby mutually agreed to, by and between the Owner and Contractor:

1. Scope of Services. The Contractor shall perform the Work in accordance with the terms of this Agreement, in accordance with any plans and specifications prepared for this Project, and as specifically identified and described in Exhibit 1 attached hereto, all of which are incorporated into and made a part of this Agreement. Exhibit 1 consists of: Project Manual, dated April 9, 2013 and Addendum #1. The Contractor shall provide and pay for all materials, tools, equipment, and labor, and shall perform all other acts and supply all other services and things necessary to fully and properly perform and complete the Work as required by this Agreement. The Contractor shall perform the Work in compliance with all governmental laws and regulations, including all applicable local, state and federal rules and regulations.
2. Time. The Contractor shall commence the Work promptly upon the date established in the Notice to Proceed, the date of this Agreement, or such other date as may be established by the Owner. Time is of the essence. The Contractor shall perform work in a timely manner. The Owner and the Contractor agree the time for performance will be amended to accommodate student testing at the site between May 14 and May 31, 2013. The Contractor shall not work during school hours during this period. Up to 14 days may be added to required completion time established in the Notice to Proceed to acknowledge this accommodation.
3. Insurance. The Contractor shall obtain and maintain in effect during the term of this Agreement, general liability and automobile liability insurance in which the Owner and the Contractor shall each be named as insured parties, which insurance shall protect the Owner and the Contractor from claims in an amount not less than \$1,000,000 for personal injury, including death, to any one person and in an amount not less than \$1,000,000 for any one occurrence, and from claims for property damages in an amount of not less than \$1,000,000 for each occurrence arising from any act or omission of Contractor, its agents, employees or subcontractors. The Contractor shall obtain and maintain in effect during

the term of this Agreement, a policy of workers compensation liability insurance in which the policy shall protect the Owner and the Contractor from claims in an amount not less than the statutory amount.

The Contractor shall promptly furnish to the Owner certificates of insurance evidencing such insurance coverage. Endorsements adding Orange County Board of Education as an additional insured as their interests may appear must be attached to certificates of insurance.

Insurance required hereunder shall be maintained by insurance companies properly licensed by the Insurance Department of the State of North Carolina and rated A or better by A.M. Best Insurance Guide.

4. Hold Harmless. The Contractor shall indemnify and hold the Owner harmless from and against any and all losses, liabilities, claims, lawsuits, judgments, and demands whatsoever, including costs of investigation (including reimbursement of reasonable legal fees and all costs) which may arise out of or be caused by any negligent act or omission or intentional wrongdoing of the Contractor or its agents, employees or subcontractors, or which may arise out of or be caused by the maintenance, presence, use, location or removal of any equipment or other property owned or operated by the Contractor or its agents, employees or subcontractors. The Owner shall not be responsible for any damage to the Contractor's property, business, agents or employees, unless said damage is due solely to the negligence of Owner.
5. Materials, Equipment And Employees.
 - a. The Contractor shall, unless otherwise specified, supply and pay for all labor, transportation, materials, tools, apparatus, lights, power, fuel, sanitary facilities and incidentals necessary for the completion of his work, and shall install, maintain and remove all equipment of the construction, other utensils or things, and be responsible for the safe, proper and lawful construction, maintenance and use of same, and shall construct in the best and most workmanlike manner, a complete job and everything incidental thereto, as shown on the plans, stated in the specifications, or reasonably implied therefrom, all in accordance with the contract documents.
 - b. All materials shall be new and of quality specified, except where reclaimed material is authorized herein and approved for use. Workmanship shall at all times be of a grade accepted as the best practice of the particular trade involved, and as stipulated in written standards of recognized organizations or institutes of the respective trades except as exceeded or qualified by the specifications.
 - c. Products are generally specified by ASTM or other reference standard and/or by manufacturer's name and model number or trade name. When specified only by reference standard, the Contractor may select any product meeting this standard, by any manufacturer. When several products or manufacturers are specified as being equally acceptable, the Contractor has the option of using any product and manufacturer combination listed. However, the Contractor shall be aware that the cited examples are used only to denote the quality standard of product desired and that they do not restrict bidders to a specific brand, make, manufacturer or specific name; that they are used only to set forth and convey to bidders the general style, type, character and quality of product desired; and that equivalent products will be

acceptable. Substitution of materials, items or equipment of equal or equivalent design shall be submitted to the architect or engineer for approval or disapproval; such approval or disapproval shall be made by the architect or engineer prior to the opening of bids.

- e. If at any time during the construction and completion of the work covered by these contract documents, the conduct of any workman be adjudged a nuisance to the Owner or considered detrimental to the work, the Contractor shall order such parties removed immediately from the Owner's property.
- f. The Contractor shall designate a foreman/superintendent who shall direct the work.

6. Codes, Permits and Inspections.

- a. The Contractor shall obtain the required permits, give all notice and comply with all laws, ordinances, codes, rules and regulations bearing on the conduct of the work under this contract. If the Contractor observes that the drawings and specifications are at variance therewith, he shall promptly notify the architect or engineer in writing. If the Contractor performs any work knowing it to be contrary to such laws, ordinances, codes, rules and regulations, and without such notice to the Owner, he shall bear all cost arising therefrom.
- b. All work under this contract shall conform to the North Carolina State Building Codes and other state and national codes as are applicable.

7. Safety Requirements.

- a. The Contractor shall be responsible for the entire site and the construction of the same and provide all the necessary protections as required by laws or ordinances governing such conditions and as required by the Owner, architect or engineer. He shall be responsible for any damage to the Owner's property or that of others on the job, by himself, his personnel or his subcontractors, and shall make good such damages. He shall be responsible for and pay for any claims against the Owner arising from such damages.
- b. The Contractor shall adhere to the rules, regulations and interpretations of the North Carolina Department of Labor relating to Occupational Safety and Health Standards for the Construction Industry (Title 29, Code of Federal Regulations, Part 1926 Construction and Part 1910 General Industry).
- c. The Contractor shall provide all necessary safety measures for the protection of all persons on the work, including the requirements of the AGC Accident Prevention Manual in Construction as amended, and shall fully comply with all state laws or regulations and North Carolina State Building Code requirements to prevent accident or injury to persons on or about the location of the work. He shall clearly mark or post signs warning of hazards existing, and shall barricade excavations and similar hazards. He shall protect against damage or injury resulting from falling materials and he shall maintain all protective devices and signs throughout the progress of the work.

8. Cleaning Up. The Contractor shall keep the sites and surrounding area reasonably free from rubbish at all times and shall remove debris from the site from time to time or when directed to do so by the Owner. Before final inspection and acceptance of the Project, the

Contractor shall thoroughly clean the sites, and completely prepare the Project and site for use by the Owner.

9. Contractor-Subcontractor Relationships. The Contractor agrees that the terms of these Contract documents shall apply equally to a subcontractor as to the Contractor, and that the subcontractor is bound by those terms as an agent of the Contractor.
10. Utilities. Temporary electricity and water shall be arranged by the Contractor at the Contractor's expense.
11. Payments. Provided that the Contractor shall strictly and completely perform all of its obligations under this Agreement, the Owner shall pay to the Contractor the sum of two hundred nine thousand Dollars (\$209,000) (herein referred to as the Contract Sum). No compensation shall be paid for any additional work that is not approved in advance by the Owner.
12. Progress Payment. One progress payment, if any, may be made by the Owner to the Contractor only after certification that the Work is complete and will be based upon the completion of the identified interim work agreed to by the Owner. Under no circumstances will the Owner make more than one interim payment. The Owner will retain five percent (5%) of the amount of any progress payment and/or the Contract Sum until all of the Work is finally completed and accepted, whether or not the Owner has occupied any or all of the Project before such time. Final payment will be withheld until the Contractor's North Carolina sales and use tax report is received. The report shall accurately list any and all sales and use tax paid on materials for the entire Project.
13. Warranties. The Contractor guarantees and warrants to the Owner all Work as follows: that all materials and equipment furnished under this Contract will be new and the best of its respective kind unless otherwise specified; that all Work will be of good quality in accordance with the industry standards for reputable contractors; that the Work will be free of omissions and faulty, poor quality, imperfect and defective material or workmanship; that the Work, including but not limited to, mechanical and electrical machines, devices and equipment, shall be fit and fully usable for its intended and specified purpose and shall operate satisfactorily with ordinary care; and that the products or materials incorporated in the Work will not contain asbestos.

If, within one year after the Date of Substantial Completion of the Work or designated portion thereof or within one year after acceptance by the Owner of designated equipment or within such longer period of time as may be prescribed by law or by the terms of any applicable special warranty required by this Agreement, any of the Work is found to be defective, not in accordance with this Agreement, or not in accordance with the guarantees and warranties specified in this Agreement, the Contractor shall correct it within five (5) working days or such other period as mutually agreed, after receipt of a written notice from the Owner to do so unless the Owner has previously given the Contractor a written acceptance of such condition. For items which remain incomplete or uncorrected on the date of Substantial Completion, the one year warranty shall begin on the date of Final Completion of the Work.

14. Termination for Convenience. The Board may terminate this Agreement at any time in its complete discretion upon twenty (20) days written notice. In the event of a termination for convenience, all finished or unfinished work and materials pursuant to this Agreement

shall be turned over to the Board and become its property. If the Agreement is terminated by the Board in accordance with this section, the Board shall only be responsible for paying Contractor for all Work performed and accepted and all materials delivered to the site as of the date of termination.

15. Termination by the Owner for Cause. The Owner may terminate the Agreement upon five (5) days written notice if the Board is dissatisfied with the quality or timeliness of the Work performed. If the Owner becomes dissatisfied with the Work, the Owner may without prejudice to any other rights or remedies of the Owner and after giving the Contractor five days' written notice, terminate employment of the Contractor and may:
1. Exclude the Contractor from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;
 2. Accept assignment of any subcontracts; and
 3. Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

If the owner terminates the whole or any part of the Work, the Owner may procure, upon such terms and in such manner as the Owner may deem appropriate, supplies or services similar to those so terminated, and the Contractor shall be liable to the Owner for any excess costs for such similar supplies or services. The Contractor shall continue the performance of the Contract to the extent not terminated hereunder.

When the Owner terminates the Contract, the Contractor shall not be entitled to receive further payment until the Work is finished. If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Architect's and legal services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the Architect and this obligation for payment shall survive this Agreement.

16. Lunsford Act/Criminal Background Checks. The Contractor shall conduct at its own expense sexual offender registry checks on each of its employees, agents, ownership personnel, or contractors ("contractual personnel") who will engage in any service on or delivery of goods to school system property or at a school-system sponsored event, except checks shall not be required for individuals who are solely delivering or picking up equipment, materials, or supplies at: (1) the administrative office or loading dock of a school; (2) non-school sites; (3) schools closed for renovation; or (4) school construction sites.. The checks shall include at a minimum checks of the State Sex Offender and Public Protection Registration Program, the State Sexually Violent Predator Registration Program, and the National Sex Offender Registry ("the Registries"). For the Contractor's convenience only, all of the required registry checks may be completed at no cost by accessing the United States Department of Justice Sex Offender Public Website at <http://www.nsopw.gov/>. The Contractor shall provide certification that the registry checks were

conducted on each of its contractual personnel providing services or delivering goods under this Agreement prior to the commencement of such services or the delivery of such goods. The Contractor shall conduct a current initial check of the registries (a check done more than 30 days prior to the date of this Agreement shall not satisfy this contractual obligation). In addition, Contractor agrees to conduct the registry checks and provide a supplemental certification before any additional contractual personnel are used to deliver goods or provide services pursuant to this Agreement. Contractor further agrees to conduct annual registry checks of all contractual personnel and provide annual certifications at each anniversary date of this Agreement. Contractor shall not assign any individual to deliver goods or provide services pursuant to this Agreement if said individual appears on any of the listed registries. Contractor agrees that it will maintain all records and documents necessary to demonstrate that it has conducted a thorough check of the registries as to each contractual personnel, and agrees to provide such records and documents to the school system upon request. Contractor specifically acknowledges that the school system retains the right to audit these records to ensure compliance with this section at any time in the school system's sole discretion. Failure to comply with the terms of this provision shall be grounds for immediate termination of the Agreement. In addition, the school system may conduct additional criminal records checks at the school system's expense. If the school system exercises this right to conduct additional criminal records checks, Contractor agrees to provide within seven (7) days of request the full name, date of birth, state of residency for the past ten years, and any additional information requested by the school system for all contractual personnel who may deliver goods or perform services under this Agreement. Contractor further agrees that it has an ongoing obligation to provide the school system with the name of any new contractual personnel who may deliver goods or provide services under the Agreement. The school system reserves the right to prohibit any contractual personnel of Contractor from delivering goods or providing services under this Agreement if the school system determines, in its sole discretion, that such contractual personnel may pose a threat to the safety or well-being of students, school personnel or others.

17. Governing Law. This Agreement and the relationship of the parties shall be governed by the laws of the state of North Carolina.
18. Entire Agreement. All of the representations and obligations of the parties are contained herein, and no modification, waiver or amendment of this Agreement or of any of its conditions or provisions shall be binding upon a party unless in writing signed by that party. The waiver by any party of a breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach of that provision by the same party, or of any other provision or condition of the Agreement.
19. Severability. If any section, subsection, term or provision of this Agreement or the application thereof to any party or circumstance shall, to any extent, be invalid or unenforceable, the remainder of said section, subsection, term or provision of the Agreement or the application of the same to parties or circumstances other than those to which it was held invalid or unenforceable, shall not be affected thereby and each remaining section, subsection, term or provision of this Agreement shall be valid or enforceable to the fullest extent permitted by law.

IN WITNESS WHEREOF, the Owner has caused these presents to be signed and the Contractor has caused these presents to be signed by a person with the authority to enter this Agreement, as hereinafter attested, all as of the day and year first above written.

ORANGE COUNTY BOARD OF EDUCATION

Donna Coffey, Chair

Attest:

(Seal)

G. Patrick Rhodes, Secretary

ABLE EXTERIOR REMODELING AND ROOFING, INC.

_____, President/Owner
(print name)

(Seal)

Attest:

Corporate Secretary