

**ALUM ROCK UNION ELEMENTARY SCHOOL DISTRICT
BOARD OF TRUSTEES
RESOLUTION No 12-25/26**

**DECLARING AN EMERGENCY AT FORMER MACSA YOUTH CENTER FACILITY LOCATED AT
RENAISSANCE AT MATHSON SCHOOL SITE AND AUTHORIZING EMERGENCY SITE ASSESSMENT,
DEMOLITION AND REMEDIATION WORK**

WHEREAS, the District operates the Renaissance Academy at Mathson (RAM) located at 2050 Kammerer Avenue, San Jose, CA (the “Mathson Site”);

WHEREAS, the Mathson Site includes the former MACSA Youth Center facility located at 600 Sinclair Avenue, San Jose, CA, in proximity to student classrooms and instructional facilities at the RAM School;

WHEREAS, on August 29, 2025, a fire engulfed the former MACSA Youth Center facility which has resulted in substantial fire debris at the Mathson site which requires prompt removal and remediation to establish safe conditions at the Mathson Site;

WHEREAS, Public Contract Code § 1102 defines an emergency as a sudden, unexpected occurrence that poses a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services, including the continuance of existing school classes;

WHEREAS, Public Contract Code § 20113 provides:

“(a) In an emergency when any repairs, alterations, work, or improvement is necessary to any facility of public schools to permit the continuance of existing school classes, or to avoid danger to life or property, the board may, by unanimous vote, with the approval of the county superintendent of schools, do either of the following:

(1) Make a contract in writing or otherwise on behalf of the district for the performance of labor and furnishing of materials or supplies for the purpose without advertising for or inviting bids.

(2) Notwithstanding Section 20114, authorize the use of day labor or force account for the purpose.

(b) Nothing in this section shall eliminate the need for any bonds or security otherwise required by law” (emphasis added);

WHEREAS, the presence of the fire debris in proximity to student classrooms and facilities at the Mathson Site constitute an emergency as defined by the Public Contract Code and the emergency will not permit a delay resulting from a competitive solicitation for bids to perform the required site hazard assessment, demolition of remaining unsafe structures, and debris removal, and immediate action is necessary to respond to the emergency;

WHEREAS, generally, Public Contract Code section 22030 et seq. requires a school district that has opted to comply with the California Uniform Public Construction Cost Accounting Act (Public Contract Code § 22000 et seq.) (the “Act”) to informally bid any public project up to \$220,000 in value and to formally bid any contract for a public project exceeding \$220,000 in value;

WHEREAS, the District has elected to comply with the provisions of the Act;

WHEREAS, the Act provides that in cases of emergency when repair or replacements are necessary, the District Board may proceed at once to repair or replace any public facility without adopting plans, specifications, strain sheets, or working details, or give notice for bids or to let contracts, and may proceed by day labor or by contractor, or a combination of the two (Public Contract Code §22035) and, similarly, Public Contract Code §20113, authorizes a school district when faced with an emergency and to avoid danger to life or property to proceed with the performance of labor and furnishing of materials by day labor or force account to address and repair the conditions of the emergency;

WHEREAS, the Act provides further that emergency work under Public Contract Code §22035 must be done pursuant to the terms of Public Contract Code § 22050;

WHEREAS, Public Contract Code § 22050 requires the following steps be taken:

(1) Pursuant to a four-fifths (4/5) vote of the Board, the District may repair or replace a public facility, take any directly related and immediate action required by that emergency, and procure the necessary equipment, services, and supplies for those purposes, without giving notice for bids to let contracts; and

(2) Before taking any action pursuant to paragraph (1), the Board shall make a finding, based on substantial evidence set forth in the minutes of its meeting, that the emergency will not permit a delay resulting from a competitive solicitation for bids, and that the action is necessary to respond to the emergency; and

(3) The Board, by a four-fifths (4/5) vote, may delegate the District Superintendent and/or designee, the authority to order any action pursuant to paragraph (1); and

(4) If a person with authority delegated pursuant to paragraph (3) orders any action specified in paragraph (1), that person shall report to the Board, at its next meeting required pursuant to this section, the reasons justifying why the emergency will not permit a delay resulting from a competitive solicitation for bids and why the action is necessary to respond to the emergency; and

(5) If the Board orders any action specified above, the Board shall review the emergency action at its next regularly scheduled meeting and, except as specified below, at every regularly scheduled meeting thereafter until the action is terminated, to determine, by a four-fifths (4/5) vote, that there is a need to continue the action. If the Board meets weekly, it may review the emergency action in accordance with this paragraph every 14 days; and

(6) If a person with delegated authority orders any action specified in paragraph (1), the Board shall initially review the emergency action not later than 7 days after the action, or at its next regularly scheduled meeting if that meeting will occur not later than 14 days after the action, and at least at every regularly scheduled meeting thereafter until the action is terminated, to determine, by a four-fifths (4/5) vote, that there is a need to continue the action, unless a person with delegated authority has terminated that action prior to the Board reviewing the emergency action and making a determination pursuant to this subdivision. If the Board meets weekly, it may, after the initial review, review the emergency action in accordance with this paragraph every 14 days; and

(7) When the Board reviews the emergency action, it shall terminate the action at the earliest possible date that conditions warrant so that the remainder of the emergency action may be completed by giving notice for bids to let contracts;

WHEREAS, immediate action must be taken by the District at the Mathson Site including, without limitation, the following: (1) Demolition of the remaining structures that pose a hazard to public safety; and (2) Assessing whether the debris includes hazardous materials, and removal of all debris;

WHEREAS, the necessary demolition, assessment and removal of debris must be performed without delay to: (1) respond to the emergency and to mitigate potential danger to

students, staff and the community; (2) mitigate further damage to Mathson Site; and (3) minimize the disruption of classes at the Mathson Site.

NOW THEREFORE, the Board of Trustees of the Alum Rock Union Elementary School District hereby finds, determines, declares, orders, and resolves as follows:

1. That the above recitals are true and correct; and
2. That the site conditions at the Mathson Site due to the fire are an emergency as defined by applicable statute(s) (“Emergency”); and
3. The circumstances of the Emergency necessitate that demolition and debris removal work and such other work to render the site of the fire safe, and that all such work related thereto, be let without the necessity of a competitive solicitation for bids to respond to the Emergency;
3. That the Interim Superintendent immediately transmit this Resolution to Santa Clara County of Superintendent of Schools Dr. David M. Toston, Sr. requesting his approval of this Resolution pursuant to Education Code section 20113;
4. That, upon such approval, the District’s Interim Superintendent or designee is authorized to use day labor or force account or execute contracts or change orders, as appropriate and as necessary to perform demolition, site assessment and debris removal work related to the Emergency, without further advertising for or inviting of bids, and to take all steps and perform all actions necessary; and
5. That District staff report on the status of this Emergency to the District’s Board at the Board’s next regularly scheduled Board meeting and at all subsequent regularly scheduled Board meetings until the Board terminates the Emergency action.

PASSED AND ADOPTED this 30th day of August 2025, by the Board of Trustees of the Alum Rock Union Elementary School District, Santa Clara County, California, by the following vote:

AYES: _____ NOES: _____ ABSENT: _____ ABSTAIN: _____