

**SAN JOSÉ UNIFIED SCHOOL DISTRICT  
BOARD OF EDUCATION  
RESOLUTION 2025-06-26-02**

**Declaring the Futility of Public Bidding  
for Acid Rite and Accu-Tab Swimming Pool Products**

**WHEREAS**, the Governing Board of the San Jose Unified School District (District) has installed the Acid Rite AR Equipment System (Acid-Rite System) and the Accu-Tab Power Base System (Accu-Tab System) in its swimming pools at certain District facilities; and

**WHEREAS**, the Acid-Rite System includes a chemical feed system which District staff has determined is only compatible with Acid-Rite chemical products; and

**WHEREAS**, the Accu-Tab System requires the use of Accu-Tab chlorine tablets, which is the only product which is both compatible with the Accu-Tab System and available for purchase in the State of California; and

**WHEREAS**, Axial Water Treatment Products, Inc. (Axial) is the sole authorized Distributor of the required Acid-Rite products (see Exhibit A, attached hereto); and

**WHEREAS**, in view of the foregoing, the District has obtained a purchase order from Axial in the amount of \$650,000 for the procurement of the necessary Acid-Rite chemical products; and

**WHEREAS**, California law provides that, "Where competitive proposals work an incongruity and are unavailing as affecting the final result or where they do not produce any advantage . . . the statute requiring competitive bidding does not apply" (Hiller v. City of Los Angeles (1961) 197 Cal.App.2d 685, 694), and that public entities need not comply with competitive bidding processes where to do so would be impractical or futile and would not serve the purposes of competitive bidding. (Graydon v. Pasadena Redevelopment Agency (1980) 104 Cal.App.3d 631.); and

**WHEREAS**, since the Acid-Rite chemical products are the only products on the market which are compatible with the Acid-Rite system, and those products are only available from Axial Water Treatment Products, publicly bidding the purchase of the Acid-Rite Chemicals would be futile and would not serve the purposes of competitive bidding; and

**WHEREAS**, since the Accu-Tab System requires the use of Accu-Tab chlorine tablets, which is the only product which is both compatible with the Accu-Tab System and available for purchase in the State of California, publicly bidding the purchase of the Acid-Rite Chemicals would be futile and would not serve the purposes of competitive bidding; and

**WHEREAS**, Meakin v. Steveland (1977) 68 Cal.App.3d 490 and Los Angeles Dredging v. Long Beach (1930) 210 Cal. 348 hold that statutes requiring competitive bidding do not apply when competitive bidding would cause an incongruity or not produce any advantage; and

**NOW, THEREFORE, BE IT RESOLVED:** the Governing Board of the San Jose Unified School District does hereby find, resolve, determine, and order as follows:

- Section 1.** That all of the recitals set forth above are true and correct, and the Board so finds and determines.
- Section 2.** That it would cause an incongruity and not produce any advantage to the District to competitively bid the purchase of the Acid-Rite chemical products.
- Section 3.** That it would cause an incongruity and not produce any advantage to the District to competitively bid the purchase of the Accu-Tab chlorine tablets.
- Section 4.** That the District authorizes District staff to enter into the attached purchase order with Axial Water Treatment Products.

**PASSED AND ADOPTED** by the Board of Education of the San José Unified School District, San José, California this 26th day of June 2025 by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

ATTEST:

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Nancy Albarrán  
Superintendent and Secretary  
Governing Board of Education

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Teresa Castellanos  
President  
Governing Board of Education