

Pleasanton USD Minutes

Special Board Meeting

July 02, 2019 5:30 PM

District Office, Board Room

4665 Bernal Avenue,

Pleasanton, CA 94566

Attendance Taken at 5:30 PM:

Present:

Valerie Arkin

Joan Laursen

Steve Maher

Mark Miller

Jamie Yee

1. OPENING CEREMONY - 5:30 p.m.

1.1. Call to Order

Minutes: President Arkin called the meeting to order at 5:33 p.m.

1.2. Pledge of Allegiance

Minutes: President Arkin led the Board and audience in the Pledge of Allegiance.

1.3. Welcome by the Board President: Valerie Arkin Vice President: Steve Maher

Members: Joan Laursen, Mark Miller and Jamie Yee

2. APPROVAL OF THE AGENDA

2.1. Approval of the Agenda

Motion Passed: Passed with a motion by Mark Miller and a second by Joan Laursen.

Yes Valerie Arkin

Yes Joan Laursen

Yes Steve Maher

Yes Mark Miller

Yes Jamie Yee

3. COMMUNITY - COMMENTS FROM THE AUDIENCE

Minutes: There were no public comments.

4. CONSENT AGENDA

4.1. Approval of the New Job Description for District Career Readiness Specialist

Motion Passed: The Administration recommends that the Board of Trustees approve the attached new job description for District Career Readiness Specialist.

Passed with a motion by Jamie Yee and a second by Mark Miller.

Yes Valerie Arkin
Yes Joan Laursen
Yes Steve Maher
Yes Mark Miller
Yes Jamie Yee

5. FACILITIES UPDATE BOARD WORKSHOP - 5:40 p.m.

5.1. Report, Discussion, and Possible Action to Approve the Lease-Leaseback Project Delivery

Motion Passed: The Administration recommends the Approval of Lease-Leaseback Project Delivery. Passed with a motion by Mark Miller and a second by Jamie Yee.

Yes Valerie Arkin
Yes Joan Laursen
Yes Steve Maher
Yes Mark Miller
Yes Jamie Yee

Minutes:

What is Lease-Leaseback?

The lease-leaseback project delivery method (LLB) has increased in popularity as an alternative option to deliver successful school construction projects in California. California's Ed Code section 17406 says that:

A District may lease any real property that belongs to the District to a "person, firm, or corporation," (the Builder) for \$1.00 per year;

The agreement between the District and the Builder must provide for the construction of a building or improvement on the District's property;

Districts are authorized under California state law to enter into agreements with partners based on qualification and price to deliver facility improvements. Districts may consider "best value" proposals, similar to procedures associated with procuring other professional services contracts, and avoid the pitfalls associated with 'low bid' contracting methods (i.e., bid protests, increased cost of change orders and frequent litigation and associated costs). LLB agreements typically start with a pre-construction services agreement that allows the builder to work with the architect in a team environment during the pre-construction phase to develop an efficient and effective set of drawings for Division of the State Architect (DSA) approval.

What are the Benefits?

The LLB contracting method provides Districts with the same negotiating tools as private sector entities, meaning that the builder(s) may be selected on the basis of

qualifications that are important to the District and its stakeholders, including references from other Districts, proven performance, etc. Some benefits of the LLB contracting method include:

A level of flexibility and control not available in the traditional hard bid method, to ensure the public dollar is maximized.

General contractor selection is based on best value to the district quality, performance, and cost

Project cost and timeline are negotiated, with costs of similar projects compared to ensure competitive pricing

Opportunity to create a design-build partnership for construct-ability review and value engineering saves money and avoids problems during construction

Ability to ensure local bond dollars stay local through participation by local trades

Guaranteed maximum price means no surprises on cost

General contractors have incentive to perform well to be selected for future projects

How is a general contractor selected?

First, a list of pre-approved general contractors is determined to be qualified all facets of LLB services. Thereafter, a competitive Request for Qualifications (RFQ) and/or Proposal (RFP) process is used whereby multiple general contractors from the approved list may be invited to submit their qualifications and/or proposals for the specific project. In the case of an RFQ, firm qualifications are reviewed by a panel and the general contractor is selected based on experience with similar projects, quality results, performance and responsiveness, financial resources and stability, ability and willingness to work with local subcontractors and suppliers, fee, and other factors. Depending on the project, a general contractor may be selected from the approved list early on in the design process to work with the architect and provide pre-construction services. Some projects do not require pre-construction services and the proposal is for construction only.

Why are the District's payments to the contractors structured as lease payments?

A significant advantage of LLB agreements is that they offer school districts flexible financing. As the developer pays for the construction and recoups the cost through the facilities lease, the school district does not have to pay the construction costs at the start or even during the construction phase the costs are paid through lease payments that extend over several years. As the school district pays for the construction in relatively small increments through lease payments, the district can spread available funds over a variety of projects at one time. In addition, the use of

lease-leaseback agreements makes it possible for the District to proceed despite the current, temporary interruption in payment of State school modernization matching funds.

Is competitive bidding and subcontractor participation similar?

Subcontractor bidding is similar for LLB as with hard bid projects the work is advertised and competitively bid by the general contractor. The value of the subcontractor work typically represents up to 90% of the total guaranteed maximum price.

What is the difference between LLB and traditional hard bid?

Under LLB, the district is allowed to select a general contractor based on factors in addition to cost. Identification of the general contractor is based on a variety of criteria, the most important of which are quality, performance and cost. The general contractor competitively bids the subcontractor work, and this cost is part of the general contractor's proposal. Through negotiation between the district and the general contractor, a guaranteed maximum price for the project is established and recommended to the Board for approval. This process provides additional flexibility and control for the district in ensuring quality projects at a competitive price. In the traditional hard bid environment, the district is required to award the project to the lowest responsive, responsible bidder, without regard to quality and performance.

Does the district have the legal authority to use LLB?

Yes. Lease-leaseback is authorized by Education Code section 17406.

What role does the Board of Education have in LLB?

The Board is required to approve a resolution adopting best value procedures and guidelines. The Board is also required to approve the LLB construction agreements for each project.

*The LLB Presentation to the Board is included in Attachment A.

*The Resolution adopting the Best Value Procedure (Resolution 2019-2020.01) is included in Attachment B.

*The LLB Procurement for School Districts is included in Attachment C.

*The Project Delivery Comparison for LLB and Traditional is included in Attachment D.

Organizational Goal 4: To build our Professional Learning Community through strengthening employee recruitment, development, and retention strategies to ensure continuity of a high-quality workforce, as evidenced by hiring data, professional development participation, and exit surveys.

*Dr. Haglund introduced Dr. Janelle Woodward, Assistant Superintendent, Teaching and Learning, as this was her first Board meeting.

Dr. Haglund shared that the purpose of the workshop was to discuss Lease-Leaseback, a new structure process, a different way to design and roll out building projects. The District hasn't done this for a while, so he felt this was important to have a conversation on the strategy and dive deep into some of the shifting in the law around the process because there have been past concerns. Ms. Deidree Sakai, Dannis Wolver Kelly (DWK), will be answering any questions we may have and will highlight the presentation, along with Mr. Nick Olsen, Director of Facilities.

*The Board and staff engaged in a very informative discussion regarding this topic. If you are interested in viewing this workshop, please go on our District website under Board meetings. TV30 archives all of our Board meetings and/or workshops.

Some of the questions and/or concerns were:

- *Is it in the best interest of the developer because they make money on this process.
- *Describe what base value means.
- *We aren't required to take the lowest bidder.
- *How is that different from the lowest cost, in a regular design build.
- *Why would you think that this lease-leaseback is a good thing?
- *Explain the process.
- *Is there any concerns on using bond money in using this?
- *Are our legal costs more than tradition?
- *Can you share the financial result to the district between these two and the major advantage for the district.
- *Can you give us a ball park figure?
- *What percentage? What is typical of change orders?
- *Concerns about lack of competition, being there are so many bond projects.
- *In previous projects, there were so many change orders, no one anticipated that the costs would double.
- *Can you give us an honest opinion on the drawbacks.
- *Does the District have a board policy on Lease-Leasebacks?
- *What other neighboring Districts do this?
- *Is this specific to certain projects or what?
- *Can we do it through legal counsel?
- *Can you talk about retention during this lease-leaseback?
- *Is there problems using bond money for the lease? Is it typical?
- *Explain the law change. What was the issue with the occupy?
- *How do you decide what contractor to use?
- *What are our next steps? RFP? Who decides on this? Please recap on this process.
- *This item required a roll call vote.

6. ADJOURNMENT Minutes: The meeting adjourned at 6:33 p.m.