

## **RESOLUTION NO. 20-001**

### **RESOLUTION OF THE BOARD OF EDUCATION OF THE BERKELEY UNIFIED SCHOOL DISTRICT APPROVING THE AWARD OF LEASE-LEASEBACK SERVICES FOR THE BERKELEY HIGH SCHOOL CLASSROOM BUILDING A + THEATER RENOVATIONS PROJECT**

**WHEREAS**, the Berkeley Unified School District (“District”) plans to construct the Berkeley High School Classroom Building A + Theater Renovations Project (the “Project”) utilizing the lease-leaseback construction delivery method, whereby the District will lease a site that it owns to a contractor who will construct improvements thereon and lease the project and the underlying site back to the District; and

**WHEREAS**, Education Code Section 17406 authorizes the governing board of a school district to let to any person, firm or corporation any real property belonging to the District if the instrument by which the property is let requires the lessee therein to construct on the demised premises, or provide for the construction thereon of, a building or buildings for the use of the school district during the term of the lease, and provides that title to that building shall vest in the school district at the expiration of that term; and

**WHEREAS**, the award of any lease-leaseback contract pursuant to Education Code section 17406 is to be based on a competitive solicitation process to the proposer providing the “best value” to the school district, taking into consideration the proposer’s demonstrated competence and professional qualifications necessary for the satisfactory performance of the services required; and

**WHEREAS**, pursuant to Education Code section 17400(b)(1), “best value” means a competitive procurement process whereby the selected proposer is selected on the basis of objective criteria for evaluating the qualifications of proposers with the resulting selection representing the best combination of price and qualifications; and

**WHEREAS**, on April 24, 2019, the District’s Board of Trustees approved the Request for Proposals for the Project setting forth the criteria and scoring of the proposals, including relevant experience, safety record, price proposal, and other criteria specified by the District; and

**WHEREAS**, the Proposal Evaluation Committee evaluated the qualifications of the proposals based upon the criteria and evaluation methodology set forth in the RFP, assigned scores to each proposal, and once the evaluation process was complete, the District determined the proposer with the best value score; and

**WHEREAS**, based on the Proposal Evaluation Committee’s assessment of proposals, Alten Construction, Inc. (“Contractor”) achieved the highest best value score; and

**WHEREAS**, in order to construct the Project using the lease-leaseback delivery method, it is necessary that the District enter into a site lease, in which the site will be leased to the

Contractor; a sublease which provides for the sublease of the site and the lease of the project by the Contractor back to the District; and a construction services agreement that contains construction provisions with which Contractor shall comply with respect to the construction of the Project.

**NOW, THEREFORE, THE BOARD OF EDUCATION OF THE BERKELEY UNIFIED SCHOOL DISTRICT DOES HEREBY RESOLVE, DETERMINE, AND ORDER AS FOLLOWS:**

**Section 1.**     Recitals. All of the recitals herein contained are true and correct.

**Section 2.**     Determination of Best Value Contractor. The Berkeley Unified School District implemented a Request for Proposals and, in accordance with Education Code section 17406, determined that **Alten Construction, Inc.** was responsive and received the best value score based on the evaluation of objective criteria contained in the RFP.

**Section 3.**     Award of Preconstruction and Lease-Leaseback Agreement. The District's Board of Education hereby awards of the preconstruction services, and lease-leaseback contract to Alten Construction for the Berkeley High School Classroom Building A + Theater Renovations Project. The Lease-Leaseback Agreement includes the Site Lease, Sublease, and Construction Services Agreement. The preconstruction services for Project will not exceed \$88,824.

**Section 4.**     Guaranteed Maximum Price. After any preconstruction services are completed, and subcontractors are selected by **Alten Construction, Inc.** for the Project, the guaranteed maximum price and contingencies for the Project shall be negotiated and finalized, with amendments to the Lease-Leaseback Agreement (the "Amendments"). The District's Board of Education must approve the Amendments and a final guaranteed maximum price prior to the start of any construction work on the Project.

**Section 5.**     Other Acts; Delegation. The District's Board of Trustees hereby approves a delegation of authority and appoints its Superintendent, or the designee of the Superintendent, who is/are hereby authorized and directed to carry out the intent of this Resolution. Said delegation shall be valid until otherwise rescinded by the Board.

**Section 6.**     Effective Date. This Resolution shall take effect upon adoption.

APPROVED, PASSED AND ADOPTED by the Board of Education of the Berkeley Unified District this **21<sup>st</sup>** day of August, 2019, by the following vote:

AYES: \_\_\_\_\_

NOES: \_\_\_\_\_

ABSENT: \_\_\_\_\_

ABSTAINED: \_\_\_\_\_

I, Judy Appel, President of the Berkeley Unified School District Board of Trustees, do hereby certify that the foregoing is a full, true, and correct copy of the resolution passed and adopted by said Board at a regularly scheduled and conducted meeting held on said date, which resolution is on file in office of said Board.

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President of the Board of Education  
Berkeley Unified School District

I, Ty Alper, Clerk of the Board of Education of the Berkeley Unified School District, do hereby certify that the foregoing Resolution was introduced and adopted by the Board of Education of the Berkeley Unified School District at a regular meeting thereof held on the **21<sup>st</sup>** day of August, 2019, by the following forgoing vote.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the Berkeley Unified School District this \_\_\_\_ day of \_\_\_\_\_, 2019.

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Clerk of the Board of Education  
Berkeley Unified School District