

RESOLUTION NO. 20-057

RESOLUTION OF THE BOARD OF EDUCATION OF THE BERKELEY UNIFIED SCHOOL DISTRICT APPROVING THE PLANS AND SPECIFICATIONS FOR INCREMENT 1 CLASSROOM BUILDING “A” AND THEATER RENOVATIONS PROJECT, THE GUARANTEED MAXIMUM PRICE THEREFOR AND THE AMENDED SITE LEASE, SUB LEASE AND CONSTRUCTION SERVICES AGREEMENT FOR THE CLASSROOM BUILDING “A” AND THEATER RENOVATIONS PROJECT

WHEREAS, the Berkeley Unified School District (“District”) plans to construct the Classroom Building “A” and Theater Renovation project (“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, pursuant to Education Code section 17406(a)(2)(A), the District published a Request for Proposals for the Project containing required procedures and guidelines for evaluating the proposals and qualifications of the proposers, including relevant experience, safety record, price proposal, and other factors specified by the District; and

WHEREAS, in accordance with the RFP, the District convened a Proposal Evaluation Committee, which conducted a two-step process in evaluating the proposals for the Project. The first step of the evaluation process was a review and scoring of proposals and determination of a “short list” of firms to be interviewed. The second step of the evaluation process was interviews and, as appropriate, adjustments to the first-step scores; 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, on **August 21, 2019** pursuant to Resolution No. 20-001 the District's Governing Board determined that Contractor received the best value score and awarded a contract to Contractor for the provision of lease-leaseback and preconstruction services for the Project; and

WHEREAS, upon completion of preconstruction services and selection of subcontractors, and upon approval of the plans and specifications for Increment 1 work on the site by the Department of General Services' Division of the State Architect, Contractor and the District were required to finalize the price for the services to be provided under the contract for construction of Increment 1 of the Project ("Guaranteed Maximum Price" or "GMP") and Contractor was required to provide the District with written rationale for the Increment 1 GMP; and

WHEREAS, the written rationale for the Increment 1 GMP amount of **Two Million Two Hundred Twelve Thousand Eight-Seven** is attached hereto as Exhibit "A"; and

WHEREAS, the Board has previously approved the Lease-Leaseback Documents referred to herein relating to the Project and the Board has examined and approved each document as to form; and

WHEREAS, the Lease-Leaseback Documents require amendment to include the Increment 1 GMP.

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. Approve Guaranteed Maximum Price and Amendment of Lease-Leaseback Contract Documents. The District's Governing Board hereby approves the Guaranteed Maximum Price ("GMP") of **Two Million Two Hundred Twelve Thousand Eight-Seven** and the amendment of the lease-leaseback contract documents to reflect the Increment 1 GMP.

Section 3. Plans and Specifications. The Governing Board hereby approves of the DSA Increment 1 approved Plans and Specifications for the Project, and hereby approves a delegation of authority and appoints the District Superintendent, or the designee of the District Superintendent, to approve any and all DSA required revisions to the Plans and Specifications.

Section 4 Other Acts; Delegation. The District's Board 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 5. Effective Date. This Resolution shall take effect upon adoption.

APPROVED, PASSED AND ADOPTED by the Governing Board of the Berkeley Unified School District this 6th day of May, 2020, by the following vote:

AYES: _____

NOES: _____

ABSENT: _____

ABSTAINED: _____

I, Judy Appel, President of the Berkeley Unified School District Governing Board, 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.

President of the Board of Education
Berkeley Unified School District

I, Ka'Dijah Brown, 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 6th day of May, 2020, 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 6th day of May, 2020.

Clerk of the Board of Education
Berkeley Unified School District

EXHIBIT “A”

RATIONALE FOR FINAL GMP

***	Stage Curtain Salvage & Store	LVH	Los Angeles	729046	5917	Above	Above
		Holzmueler	San Francisco	348268	7741	Above	
***	Re-Route Irrigation Main	Neary Landscape	Colati	814207	2998	7,200	7,200
21 00 00	Fire Protection - Cut & Cap	Ingram Fire Protection	Hayward	985475	3974	8,450	8,450
		Bay Cities Fire Protection	Santa Rosa	731222	45613	33,500	
22 00 00	Plumbing - Cut & Cap/Function	Cal Pacific	Brisbane	924244	4768	15,000	15,000
23 00 00	HVAC - Cap & Seal/Function	Cal Pacific	Brisbane	924244	4768	16,000	16,000
23 10 00	Pre-Removal Air Flow Test	Top Notch Mechanical	Sacramento			61,000	
26 00 00	Electrical - Safe Off	Mike Brown Electric				418,000	
28 00 00	Fire Alarm	Bowen				276,295	276,295
	Branch Wiring Allowance	Mike Brown				9,000	
		Bowen				14,617	14,617
	Fire Alarm Allowance	Mike Brown				16,400	
		Bowen				33,518	33,518