

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 ____ day of _____, 2020, by the following vote:

AYES: _____

NOES: _____

ABSENT: _____

ABSTAINED: _____

I, _____, 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, _____, 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 ____ day of _____, 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 ____ day of _____, 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

AMENDMENT NO. 1

(Lease-Leaseback Agreement for the Classroom Building “A” and Theater Renovation Project)

This Amendment No. 1 (“Amendment”) to the Lease-Leaseback Agreement (which is comprised of the Site Lease, Sublease, and Construction Services Agreement, collectively referred to as the “Lease-Leaseback Agreement”) between Berkeley Unified School District (“District”) and Alten Construction, Inc., LLC (“Contractor”) is hereby amended as follows:

WHEREAS, District and Contractor entered into the Lease-Leaseback Agreement for the Classroom Building “A” and Theater Renovation Project on or about August 21, 2019, which included a Site Lease, Sub Lease and Construction Services Agreement (collectively, “the Agreement”);

WHEREAS, District obtained final DSA approval for Increment 1 plans and specifications for the Project and the Contractor has performed value engineering and preconstruction services in connection therewith;

WHEREAS, the Contractor submitted a final Guaranteed Maximum Price (“GMP”) for the Increment 1 Project which was approved by the District Governing Board at its May 6, 2020 regular meeting;

WHEREAS, the Agreement requires updating to include the GMP for Increment 1.

NOW THEREFORE, DISTRICT AND CONTRACTOR AGREE AS FOLLOWS:

1. All references to the GMP in the Agreement shall include the Increment 1 GMP dollar amount of Two Million Two Hundred Twelve Thousand Eighty-Seven (\$2,212,087). The Increment 1 GMP is itemized in the Increment 1 GMP Summary, which is attached hereto and incorporated herein as Exhibit A to this Amendment.
2. This Amendment shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns. If any provision of this Amendment shall be held invalid or unenforceable by a court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision of this Amendment or the Lease-Leaseback Agreement.
3. This Amendment may be executed and delivered in any number of counterparts, each of which so executed and delivered shall be deemed an original and all of which shall constitute one and the same instrument.
4. In the event of any inconsistency between the terms of this Amendment and the Lease-Leaseback Agreement, the terms of this Amendment shall control.

CONTRACTOR

DISTRICT:

CONSTRUCTION, LLC

**BERKELEY UNIFIED SCHOOL
DISTRICT**

By: _____
Name _____
Title _____

DATE: _____

By: _____
Name _____
Title _____

DATE: _____

EXHIBIT A

						COST SUMMARY	
						DIRECT COST	1,660,346
						GENERAL CONDITIONS	264,400
						OVERHEAD & PROFIT	86,614
						BONDS & INSURANCE	40,227
						SUBTOTAL	2,051,587
						ALLOWANCES	
						FIRE WATCH	0
						TEMP ROOF DRAINAGE	10,000
						DECOMMISSION ELEV	25,500
						PROTECT THTR SEATS	125,000
						SUBTOTAL	160,500
						TOTAL INC 1 GMP	2,212,087
CSI	Description	Firm	City	License#	DIR#	Sub\$\$\$	Bid \$\$\$
	General Conditions- 5 Mo's	Allen	Richmond	705713	530	264,400	264,400
	COVID 19 Costs	Allen	Richmond	705713	530	50,586	50,586
	\$11,629/MO						
	Partial Shoring Design	ZFA	Santa Rosa			100,000	100,000
	General Purpose Labor	Allen	Richmond	705713	530	42,024	42,024
	Temp Power & Distribution	Allen	Richmond	705713	530	14,279	14,279
	Salvaged & Store	Allen	Richmond	705713	530	29,535	29,535
	Protect Existing Surfaces	Allen	Richmond	705713	530	84,909	84,909
	Demo Concrete Overhang	CWS	San Leandro	253173	15671	39,975	
		Nichols	Redwood City	397406	451828	21,775	21,775
00335	Abatement	Bayview	San Leandro	684341	2423	850,000	
		AMG	Oakland	586844	3666	550,000	
		DWH	Richmond	985951	6067	1,363,560	
		Garrison	San Ramon	1047936	63040	726,194	
		Northstar	Hayward	518740	2307	927,850	
		PALS	Stockton	700658	3350	729,995	
		PAS	Richmond	721817	5843	697,250	
		Sterling Environmental	Oakland	537909	6011	1,287,120	
		Eco Bay	San Francisco	912238	4662	444,577	
							729,995
2221	Soft Demolition	Bayview	San Leandro	684341	2423	Above	
		AMG	Oakland	586844	3666	Above	
		DWH	Richmond	985951	6067	Above	
		Garrison	San Ramon	1047936	63040	Above	
		Northstar	Hayward	518740	2307	Above	
		PALS	Stockton	700658	3350	Above	
		PAS	Richmond	721817	5843	Above	
		Sterling Environmental	Oakland	537909	6011	Above	
							Above
	Site Demolition	WR Forde	Richmond	1025853		78,503	78,503
	Tree Removal	Garrison	San Ramon	1047936	63040	Above	
		Campanella Corp	Hayward	750648	11254	80,000	
	Production Rigging Demo	LVH	Los Angeles	729046	5917	137,660	137,660
		Holtzmueller	San Francisco	348368	7741	169,677	

***	Stage Curtain Salvage & Store	LVH	Los Angeles	729046	5917	Above	Above
		Holzmueler	San Francisco	348268	7741	Above	
***	Re-Route Irrigation Main	Neary Landscape	Cotati	814207	2998	7,200	7,200
21 00 00	Fire Protection - Cut & Cap	Ingram Fire Protection	Hayward	985475	3974	8,450	8,450
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