

Resolution No. 46-15

RESOLUTION OF THE BOARD OF EDUCATION OF THE DAVIS JOINT UNIFIED SCHOOL DISTRICT AUTHORIZING THE EXECUTION AND DELIVERY OF THE SITE LEASE, SUBLEASE, CONSTRUCTION SERVICES AGREEMENTS AND OTHER ACTS RELATING TO THE RELOCATABLE CLASSROOM REPLACEMENT AND CAMPUS WIDE RE-ROOFING/PAINTING RECONSTRUCTION PROJECTS AT CESAR CAHVEZ ELEMENTARY SCHOOL.

WHEREAS, the Davis Joint Unified School District ("District") desires to perform Relocatable Classroom Replacements & campus wide re-roofing & painting ("Project") on the CESAR CHAVEZ ELEMETARY SCHOOL SITE ("Site"), as a lease-leaseback project whereby the District will lease the Site which the District owns to Landmark Construction, Inc. ("Contractor") who will construct the Project thereon and lease the Project and underlying Site back to the District;

WHEREAS, Education Code section 17406 authorizes the governing board of a school district, without advertising for bids, to let to any person, firm or corporation any real property belonging to the district if the instrument by which such property is let requires the lessee to construct on the demised premises, a building or buildings for use of the school district during the term thereof, and provides that title to the building shall vest in the school at the expiration of that term;

WHEREAS, it is in the best interest of the District to cause the construction of the Project through lease and sublease of the Site pursuant to Education Code section 17406;

WHEREAS, the District's Board of Education ("Board") has determined that the improvements are necessary for the proper operation or function of the school facilities to be leased;

WHEREAS, in order to complete the Project, it is necessary that the District enter into a Site Lease, by which the Site will be leased to Landmark Construction, Inc., and a Sublease Agreement which provides for the sublease of the Site and the lease of the Project by Landmark Construction, Inc. to the District, and that certain other action be taken and authorized;

WHEREAS, the Sublease includes construction provisions with which Landmark Construction, Inc., shall comply with respect to construction of the Project ("Construction Services Agreement");

WHEREAS, pursuant to Section 17402 of the Education Code, the plans and specifications for the Project must be prepared and adopted prior to entering into Site Lease and the Sublease agreement for the Project ("Plans and Specifications");

WHEREAS, the Plans and Specifications have been submitted to all applicable governmental agencies for approval;

WHEREAS, District has obtained all applicable governmental agency approvals of the Plans and Specifications for the Project subject to minor revisions, if any, prior to execution of the Site Lease or Sublease, and prior to commencement of the Project;

WHEREAS, the Board has been presented with the Plans and Specifications for the Project and has examined and approves of such documents, subject to minor revisions, if any, by applicable governmental agency, and subject to the delegation of authority provided by the Board as set forth below;

WHEREAS, in order to ensure that moneys sufficient to pay all costs will be available for the Project, the District desires to appropriate funds for the Project from its current fiscal year as provided by the Sublease Agreement;

WHEREAS, the Board has been presented with the form of each document referred to herein relating to the transaction contemplated hereby and the Board has examined and approved each document and desires to authorize and direct the execution of such documents and the consummation of such transaction, subject to the delegation of authority provided by the Board as set forth below;

WHEREAS, all acts, conditions, and things required by the laws of the State of California to exist, to have happened and to have been performed precedent to and in connection with the consummation of the transaction authorized hereby, do exist, have happened and have been performed in regular and due time, form and manner as required by law, and the District is now duly authorized and empowered, pursuant to each and every requirement of law, to consummate such financing for the purpose, in the manner, and upon the terms herein provided.

NOW, THEREFORE, THE BOARD OF EDUCATION OF THE DAVIS JOINT 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. Agreements with Landmark Construction, Inc. The form of agreement entitled "Site Lease," the form of agreement entitled "Sublease Agreement," and the form of the agreement entitled "Construction Services Agreement," each presented to this meeting and each to be entered into by and between the District and Landmark Construction, Inc., which together provide generally for (i) the lease by the District of the Site to Landmark Construction, Inc., (ii) the sublease of the Site and the lease of the Project by Landmark Construction, Inc., to the District, and (iii) the payment of certain lease payments by the District under the Sublease Agreement in an amount equal to the aggregate construction costs for the Project as set forth in the Construction Services Agreement ("Lease Payments") are hereby approved subject to any revisions which are acceptable to both District's Superintendent ("Superintendent") and District's legal counsel. The Superintendent or their designee is hereby authorized and directed, for and in the name and on behalf of the District, to execute and deliver to Landmark Construction, Inc. such agreements, once finalized, pursuant to the delegation of authority provided for hereby.

Section 3. Approval of Process. The Board hereby approves of the lease-leaseback process and approves of the Guaranteed Maximum Price amount of Three Million Three Hundred Ninety-six Thousand Nine Hundred Fifteen Dollars and Eighty-six Cents (\$3,396,915.86) which includes an itemized list of project allowances totaling Eighty-five Thousand Eight Hundred Fifty-five Dollars and Sixty-seven cents (\$85,855.67) and a Project Contingency value of Two Hundred Ten Thousand Dollars (\$210,000), which figure shall be a “not to exceed” figure for the construction of the Project pursuant to the terms of the Construction Services Agreement. The Board hereby determines that it is in the best interest of the District to cause the construction of the Project through lease and sublease of the Site pursuant to Education Code Section 17406 and that the improvements are necessary for the proper operation or function of the school facilities to be leased.

Section 4. Approval of Plans and Specifications. The Board hereby approves the Plans and Specifications for the Project, (DSA Application No. 02-114122) subject to minor revisions, if any, by the applicable governmental agencies, and hereby provides a delegation of Board authority to the Superintendent who is authorized and directed, for and in the name and on behalf of the District, to approve of any such applicable governmental agency-approved Plans and Specifications, or revisions thereto.

Section 5. Other Acts; Delegation. The Board hereby approves a delegation of authority and appoints the Superintendent, or the designee of the District Superintendent, who is/are hereby authorized and directed, to negotiate a final Guaranteed Maximum Price not to exceed the amount in Section 3, to execute and deliver the Site Lease and Sublease as provided by Section 2 above, execute and deliver documents and/or negotiate documents with Landmark Construction, Inc., and to do any and all things necessary, in consultation with the staff, that they may deem necessary or advisable in order to effectuate the purpose and intent of this Resolution, all subject to ratification of the Board, if necessary. Said delegation shall be valid during the construction of the Project, or until otherwise rescinded by the Board.

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

PASSED AND ADOPTED this 21st day of May, 2015 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAINED:

I, _____, President of the Board of Education of the Davis Joint Unified School District, 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
Davis Joint Unified School District

I, _____, Clerk of the Board of Education of the Davis Joint Unified School District, do hereby certify that the foregoing Resolution was introduced and adopted by said Board at a regular session meeting thereof held on the 7th day of May 2015, by the following forgoing vote.

Clerk of the Board of Education
Davis Joint Unified School District