

**SAN RAFAEL CITY SCHOOLS**

**RESOLUTION NO. 1718-7**

**RESOLUTION OF THE BOARD OF TRUSTEES OF  
SAN RAFAEL CITY SCHOOLS  
APPROVING CONTRACT WITH JL MODULAR, INC. AND ATTESTING TO FUTILITY OF  
FURTHER SOLICITATION FOR THE DAVIDSON MODULAR PROJECT**

**RESOLVED** by the Board of Trustees ("Board") of the San Rafael City Schools ("District"), located in the County of Marin, State of California, that:

**WHEREAS**, pursuant to Education Code section 17406, the District advertised a Request for Qualifications and Proposals ("RFQ/P") for four lease-leaseback projects, including one located at Davidson Middle School ("Davidson Modular Project") in the Marin Independent Journal and California Builder's Exchanges once a week for two weeks, commencing on September 6, 2017, and completed on September 19, 2017;

**WHEREAS**, District staff, in conjunction with District consultants, reviewed proposals for the Project submitted in response to the RFQ/P issued on August 31, 2017 in accordance with the adopted Best Value Methodology and taking into consideration the proposers' demonstrated competence and professional qualifications necessary for the satisfactory performance of the services required;

**WHEREAS**, Jeff Luchetti Construction, Inc., was prequalified pursuant to Education Code section 17406, Public Contract Code section 20111.6 and the RFQ/P requirements;

**WHEREAS**, after consideration of all of the proposals for the Davidson Modular Project, the Board hereby determines that Jeff Luchetti Construction, Inc. was ranked as the best value for the Davidson Modular Project;

**WHEREAS**, on or about February 5, 2018, the Board adopted written findings supporting the determination that Jeff Luchetti Construction, Inc. was ranked as the best value for the Davidson Modular Project;

**WHEREAS**, on or about February 5, 2018, the Board awarded the lease-leaseback agreements for the Davidson Modular Project to Jeff Luchetti Construction, Inc. utilizing modulares from listed subcontractor JL Modular, Inc.;

**WHEREAS**, the District wishes to contract for professional design services from design professionals at JL Modular, Inc. in connection with the modular components of the Davidson Modular Project;

**WHEREAS**, Government Code section 4525 et seq. authorizes the procurement of professional design services, including architectural, landscape architectural, engineering, environmental, or land surveying services, based on demonstrated competence and professional qualifications necessary for the satisfactory performance of the services required;

**WHEREAS**, Education Code section 17070.50, specifies that apportionment of funding received pursuant to the Leroy F. Greene School Facilities Act of 1998 for the services of an architect, structural engineer, or other design professional pursuant to a competitive process consistent with Government Code section 4525;

**WHEREAS**, notwithstanding Education Code section 17070.50, California courts allow a narrow exception to competitive procurement in circumstances in which it would be futile, undesirable or impractical and would cause additional delay and additional cost (*Los Angeles Dredging Company v. City of Long Beach* (1930) 2 Cal. 348; *Graydon v. Pasadena Redevelopment Agency* (1980) 104 Cal.App.3d 631, 645);

**WHEREAS**, California law provides that, "Where competitive proposals work an incongruity and are unavailing as affecting the final result or where they do not produce any advantage . . . the statute . . . does not apply." (*Hiller v. City of Los Angeles* (1961) 197 Cal.App.2d 685, 694.);

**WHEREAS**, in compliance with Government Code section 4525 et seq., District staff has requested and received a Statement of Qualifications from JL Modular, Inc. demonstrating JL Modular, Inc.'s competence and professional qualifications necessary for the satisfactory performance of the services required;

**WHEREAS**, JL Modular, Inc. was named as a listed subcontractor in Jeff Luchetti Construction, Inc.'s proposals for the Davidson Modular Project to supply modular components designed by JL Modular, Inc. and installation services for the Davidson Modular Project;

**WHEREAS**, the designs for JL Modular, Inc. are proprietary and additional solicitation for services relating to the JL Modular, Inc. components of the Davidson Modular Project will cause additional delay and cost to the District, due to the absence of other qualified competitors capable of providing the required services in connection with the proprietary designs.

**WHEREAS**, based on the foregoing, it would be incongruous, futile, and unavailing to attempt additional solicitations for in an attempt to competitively procure professional design services available only through JL Modular, Inc.; and

**WHEREAS**, District therefore desires to enter into a contract with JL Modular, Inc. for the provision of professional design services in connection with the modular components of the Davidson Modular Project.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Trustees of the San Rafael City Schools the following:

**Section 1.** This Board hereby finds and determines that the foregoing recitals are true and correct.

**Section 2.** For the reasons stated above, competitive procurement of professional design services in connection with the modular components of the Davidson Modular Project would not produce an advantage to the District, and would produce a net burden and distinct disadvantages to the District, and to its students and teachers.

**Section 3.** Based on the foregoing, it would be undesirable, impractical, futile, and unavailing to pursue competitive procurement of professional design services in connection with the modular components of the Davidson Modular Project.

**Section 4.** That the District's Governing Board hereby approves award of a contract to JL Modular, Inc. for provision of professional design services in connection with the modular components of the Davidson Modular Project, based on its proposal and statement of

Resolution No. 1718-7  
February 26, 2018

qualifications, without further solicitation, and authorizes the Superintendent and designees to take all steps and perform all actions necessary to execute and implement that Contract.

**PASSED AND ADOPTED** by the Board of Trustees of the San Rafael City Schools, Marin County, California, on this 26<sup>th</sup> day of February, 2018:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

\*\*\*\*\*

STATE OF CALIFORNIA            )  
  ) SS  
COUNTY OF MARIN            )

I, \_\_\_\_\_, [Clerk] of the Governing Board of the San Rafael City Schools of Marin County, State of California, do hereby certify that the foregoing is a true copy of a resolution adopted by the board at a regular meeting thereof, at the time and by the vote therein stated, which original resolution is on file in the office of said board.

\_\_\_\_\_  
\_\_\_\_\_, [Clerk]

\_\_\_\_\_, 2018  
Date