

RESOLUTION OF THE BOARD OF EDUCATION OF THE SANTA BARBARA UNIFIED SCHOOL DISTRICT APPROVING USE OF THE LEASE-LEASEBACK PROCESS, ADOPTING PLANS AND SPECIFICATIONS, AND AUTHORIZING THE EXECUTION AND DELIVERY OF A SITE LEASE AND A FACILITIES LEASE AND OTHER ACTS RELATING TO THE RESTROOM BUILDING & SITE WORK IMPROVEMENTS FOR ADELANTE CHARTER SCHOOL PROJECT

WHEREAS, the SANTA BARBARA UNIFIED SCHOOL DISTRICT ("District") desires to provide for the construction of the RESTROOM BUILDING & SITE WORK IMPROVEMENTS FOR ADELANTE CHARTER SCHOOL PROJECT ("Project"), on the ADELANTE CHARTER SCHOOL CAMPUS on the FRANKLIN ELEMENTARY SCHOOL CAMPUS located at 1111 East Mason Street, Santa Barbara, California ("Site"), as a lease-leaseback project whereby the District will lease the Site which the District owns to McGillivray Construction, Inc. ("MCGILLIVRAY"), who will construct the Project thereon, and sublease 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 or other improvements for use by the school district during the term thereof, and provides that title to the building or buildings or other improvements shall vest in the school district at the expiration of the lease term;

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

WHEREAS, in order to complete the Project, it is necessary that the District enter into a Site Lease, in which the Site will be leased to MCGILLIVRAY, and a Facilities Lease which provides for the sublease of the Site and the Project by MCGILLIVRAY to the District, and that certain other actions be taken and authorized;

WHEREAS, the Facilities Lease includes construction provisions with which MCGILLIVRAY shall comply with respect to construction of the Project ("Construction Provisions");

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

WHEREAS, the Plans and Specifications for the Project have been prepared, and the District has complied with all statutory and other legal requirements, for review and approval of the Plans and Specifications by the Division of the State Architect ("DSA");

WHEREAS, the Plans and Specifications have been made available to the Board for review, and the Board desires to adopt the Plans and Specifications for the Project subject to minor revisions, if any, as required by DSA or other agencies having jurisdiction over the Project;

WHEREAS, in order to ensure that moneys sufficient to pay all costs for the Project will be available, the District desires to appropriate funds for the Project as provided in the Facilities Lease;

WHEREAS, the Board has been presented with the form of each lease referred to herein, relating to the transactions contemplated hereby and the Board intends to approve each document and desires to

authorize and direct the execution of the documents and the consummation of the transactions, subject to any final revisions approved by the District's Superintendent ("Superintendent") and District's legal counsel;

WHEREAS, all acts, conditions and things required by the laws of the State of California to have happened and to have been performed precedent to and in connection with the consummation of the transactions 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 the contemplated transactions, for the purpose, in the manner, and upon the terms provided herein.

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

Section 1. Recitals; Adoption of Plans and Specifications. All of the recitals herein contained are true and correct. The Board hereby adopts the Plans and Specifications subject only to minor revisions, if any, as required by DSA or other agencies having jurisdiction over the Project.

Section 2. Site Lease and Facilities Lease. The form of agreement entitled "Site Lease" and the form of agreement entitled "Facilities Lease" (with Construction Provisions attached thereto as Exhibit "D"), each to be entered into by and between the District and MCGILLIVRAY, which together provide generally for: i) the lease by the District of the Site to MCGILLIVRAY; (ii) the sublease of the Site and the Project by MCGILLIVRAY to the District; and, (iii) the payment of certain lease payments by the District under the Facilities Lease in an amount equal to the aggregate construction costs for the Project as set forth in the Construction Provisions, are hereby authorized and approved, subject to any final negotiation of terms which are acceptable to both the Superintendent or his designee, and District's legal counsel, and subject to the District's Project budget. The Superintendent or his designee is hereby authorized and directed, for and in the name of the District, to negotiate, prepare, execute and deliver to MCGILLIVRAY such agreements, pursuant to the delegation of authority provided for hereby.

Section 3. Approval of Process and GMS. The Board hereby approves of use of the lease-leaseback process, and approves MCGILLIVRAY's Guaranteed Maximum Sum ("GMS") of _____ DOLLARS (\$_____.00) for the Project, which shall be constructed according to the approved Plans and Specifications.

Section 4. Other Acts; Delegation. The Board hereby approves the delegation of authority provided herein, and appoints the Superintendent or his designee, who is/are hereby authorized and directed to do any and all other things which they may deem necessary or advisable in order to effectuate the purpose and intent of this Resolution, including initiation of appropriate legal action, all subject to ratification of the Board of Education, as necessary. This delegation shall be valid during the construction of the Project, or until otherwise rescinded by the Board.

Section 5. Effective Date. This Resolution shall take effect upon adoption.

PASSED AND ADOPTED this 11th day of June, 2013, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAINED:

I, S. Monique Limón, President of the SANTA BARBARA UNIFIED SCHOOL DISTRICT Board of Education, do hereby certify that the foregoing is a full, true, and correct copy of the Resolution passed and adopted by the Board of Education at a properly scheduled and conducted meeting held on this date, which Resolution is on file in the office of the Board.

President of the Board on Education
SANTA BARBARA UNIFIED SCHOOL DISTRICT

I, David Cash, Clerk of the SANTA BARBARA UNIFIED SCHOOL DISTRICT Board of Education, do hereby certify that the foregoing Resolution was introduced and adopted by the Board of Education at a properly scheduled meeting thereof held on this date, by the forgoing vote.

Clerk of the Board on Education
SANTA BARBARA UNIFIED SCHOOL DISTRICT