

RESOLUTION NO. 2020/21-12

RESOLUTION OF THE BOARD OF EDUCATION OF THE SANTA BARBARA UNIFIED SCHOOL DISTRICT APPROVING LEASE-LEASEBACK CONTRACT DOCUMENTS AND AUTHORIZING EXECUTION AND DELIVERY OF SITE LEASE AND FACILITIES LEASE RELATING TO THE HISTORIC WINDOWS REHABILITATION AT SANTA BARBARA JUNIOR HIGH SCHOOL

WHEREAS the Santa Barbara Unified School District (“District”) desires to rehabilitate the historic windows (“Project”) on the Santa Barbara Junior High School campus at 721 East Cota St., Santa Barbara, CA 93103, County of Santa Barbara (“Site”);

WHEREAS the District intends to implement the Project under the lease-leaseback delivery method, whereby the District will lease the Site to Frank Schipper Contracting, Inc. (“Contractor”), which 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 the District (the “Board”) to lease the Site to Contractor and to have Contractor construct the Project on the Site and to lease to the District the Site and the Project, provided the contract documents are awarded based on a competitive solicitation process, wherein the selected contractor is determined to provide the best value to the District;

WHEREAS, the Board has determined that the Contractor’s proposal, submitted in connection with the District’s competitive solicitation process, provides the best value to the District, taking into consideration Contractor’s demonstrated competence and professional qualifications necessary for the satisfactory performance of the Project services;

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 Contractor, and a Facilities Lease which provides for the sublease of the Site and the Project by Contractor to the District;

WHEREAS, the Facilities Lease includes Preconstruction Provisions and Construction Provisions with which Contractor must comply with respect to the construction of the Project;

WHEREAS, as part of the Preconstruction Services to be provided by Contractor, Contractor will prepare a Project schedule and detailed cost estimate for construction of the Project which sets forth a Guaranteed Maximum Price (“GMP”) for the Project;

WHEREAS, upon completion of Preconstruction Services, Contractor shall provide the District with a formal proposal for the GMP, which will include the detailed cost estimate prepared by Contractor;

WHEREAS, the GMP shall be presented to the Board for approval, and the GMP proposal shall not be effective unless approved by the Board;

WHEREAS, except for those services identified in the Preconstruction Provisions, Contractor shall not proceed with any work in the construction services phase of the Project unless and until the GMP is approved by the Board;

WHEREAS, acceptance of the GMP is within the sole and absolute discretion of the District and its Governing Board;

WHEREAS, in the event Contractor and District are unable to finalize a GMP which is approved by the Board, the District has the right to terminate the Preconstruction Services and Construction Services of the Contractor;

WHEREAS, the Board has been presented with each lease referred to herein, relating to the transactions contemplated herein;

NOW THEREFORE BE IT RESOLVED that the Board of Education does hereby resolve and determine as follows:

1. Findings: The Board finds that the terms and conditions of the Site Lease and Facilities Lease (and incorporated exhibits and attachments) are in the best interest of the District.
2. Approval of Site Lease and Facilities Lease: The Site Lease and Facilities Lease (and incorporated exhibits and attachments) which together provide generally for: (i) the lease by the District of the Site to Contractor; (ii) the sublease of the Site and the Project by Contractor 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 of the Project as set forth in the Construction Provisions, are hereby authorized and approved. Each shall be entered into by and between District and Contractor.

The Superintendent or his designee is hereby authorized and directed, for and in the name of the District, to execute and deliver to Contractor such agreements, pursuant to the delegation of authority provided herein.

3. Effective Date: This Resolution shall take effect upon adoption.

PASSED AND ADOPTED at a meeting of the Santa Barbara Unified School District Board of Education, Santa Barbara County, Santa Barbara, California, held on the 13th day of October, 2020 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

President, Board of Education
Santa Barbara Unified School District

ATTEST:

Clerk, Board of Education
Santa Barbara Unified School District

