

AUTHORIZE THE EXECUTION OF A LEASE-LEASEBACK CONSTRUCTION DELIVERY METHOD FOR THE RANCHO SONADO PROJECT INCLUDING APPROVAL OF LEASE-LEASEBACK SERVICE AGREEMENT TEMPLATES, AND REQUEST FOR PROPOSALS (RFP) FOR PRE-CONSTRUCTION AND LEASE-LEASEBACK SERVICES

RESOLUTION NO. 06-25

WHEREAS, the County Superintendent desires to utilize the lease-leaseback delivery method for the construction of buildings and structures that were destroyed in the 2020 Bond Fire on the Rancho Sonado property (“Project”);

WHEREAS, because of the limited availability of funding with which to construct this Project, County Superintendent’s staff has evaluated the best construction delivery methods for getting the Project built within the limited budget. The best delivery method to have the Project built within the budget constraints is the lease/leaseback method using the authority provided in Education Code section 17406.

WHEREAS, the lease-leaseback delivery method has been recognized by the State Legislature as a proven method to deliver school facilities on time, on budget, and with reduced risk associated with design conflicts, delays and costs overruns and provides more certainty to the final cost of the Project.

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 Board 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 Board at the expiration of that term;

WHEREAS, the selection of any lease-leaseback proposer pursuant to Education Code section 17406 shall be based on a competitive solicitation process and a contract shall be awarded to the proposer providing the “best value” to the County Superintendent, taking into consideration the proposer’s demonstrated competence and professional qualifications necessary for the satisfactory performance of the services required;

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;

WHEREAS, the County Superintendent may not accept a proposal from any potential bidder who is required to submit a Questionnaire in accordance with Public Contract Code section 20111.6, but has not done so at least ten (10) business days prior to the date fixed upon the public opening of sealed bids, or has not been prequalified by the County Superintendent in accordance

with Public Contract Code section 20111.6(f) at least five (5) business days prior to the opening of sealed bids; and

WHEREAS, the County Superintendent has established a process for prequalifying prospective bidders pursuant to Public Contract Code section 20111.6 on a yearly basis and such prequalification shall be considered valid for up to one (1) calendar year following the date of the initial prequalification.

WHEREAS, in order to construct the Project using the lease-leaseback construction delivery method, it is necessary that the County Superintendent enter into a site lease, in which the site will be leased to the Contractor; a sublease which provides for the sublease of the site and the lease of the Project by the Contractor back to the Board; and a construction services agreement that contains construction provisions with which Contractor shall comply with respect to the construction of the Project (collectively, "Lease-Leaseback Agreements").

WHEREAS, the County Superintendent has been presented with the form of each document referred to herein relating to the transaction contemplated hereby and the County Superintendent has examined and approved each document as to form and desires to authorize and direct evaluation of proposals in accordance with Education Code section 17406;

WHEREAS, the County Superintendent desires pursuant to Education Code section 17406 and similar statutes, to delegate authority to the County Superintendent's Associate Superintendent, Administrative Services to evaluate the qualifications of the proposers based solely upon the criteria and evaluation methodology set forth in the attached Request for Proposals, to assign a best value score to each proposal, and once the evaluation process is complete, to rank all responsive proposals from the highest best value to the lowest best value to the Superintendent, and to otherwise carry out the intent of this Resolution.

NOW, THEREFORE, THE ORANGE COUNTY SUPERINTENDENT OF SCHOOLS DOES HEREBY RESOLVE, DETERMINE, DECLARES AND ORDERS AS FOLLOWS:

Section 1. Recitals. All of the recitals herein contained are true and correct.

Section 2. Request for Proposals. The form of the Request for Proposals (RFP) to be issued to proposers meeting the requirements set forth in Education Code section 17406 and attached hereto as Exhibit "A" is hereby approved and adopted by the County Superintendent subject to any revisions which are acceptable to both the County Superintendent and County Superintendent's legal counsel.

Section 3. Lease-Leaseback Agreements. The form of agreements entitled "Pre-construction Services Agreement", "Site Lease", "Sublease Agreement" and "Construction Services Agreement", each attached to the Request for Proposals and presented and each to be entered into by and between the County Superintendent and the proposer providing the best value to the County Superintendent, are hereby approved and adopted subject to any revisions which are acceptable to both County Superintendent and County Superintendent's legal counsel.

Section 4. Approval of Process. The County Superintendent hereby approves the lease-leaseback process and the competitive solicitation process as set forth herein and the documents attached hereto as Exhibit "A".


Section 5. Other Acts; Delegation. The County Superintendent hereby approves a delegation of authority and appoints its Associate Superintendent, Administrative Services, who is hereby authorized and directed, to evaluate the qualifications of the proposers based solely upon the criteria and evaluation methodology set forth in the attached Request for Proposals, to assign a best value score to each proposal, and once the evaluation process is complete, to rank all responsive proposals from the highest best value to the lowest best value to the County Superintendent, and to otherwise carry out the intent of this Resolution. Said delegation shall be valid until otherwise rescinded by the Board.

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

PASSED AND ADOPTED by the Governing Board of the Orange County Superintendent of Schools on March 5, 2025, by the following vote:

AYES:	<u>5</u>
NOES:	<u>0</u>
ABSENT:	<u>0</u>
ABSTAIN:	<u>0</u>

I, Jorge Valdes, Esq., Clerk of the Orange County Board of Education, the Board, do hereby certify that the foregoing is a full, true and correct copy of a 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.



Jorge Valdes, Esq., Clerk of the Board