

Resolution No. 33-17

**RESOLUTION OF THE BOARD OF EDUCATION
OF THE DAVIS JOINT UNIFIED SCHOOL DISTRICT
AUTHORIZING THE EXECUTION AND DELIVERY OF A SITE LEASE,
SUBLEASE AGREEMENT AND CONSTRUCTION SERVICES
AGREEMENT AND OTHER ACTS RELATING TO
THE PROPOSITION 39 LIGHTING RETROFIT PROJECT at EMERSON
JUNIOR HIGH SCHOOL**

WHEREAS, the Davis Joint Unified School District ("District") desires to complete the Proposition 39 Lighting Retrofit Project at Emerson Junior High School ("Project") as more particularly described in Exhibit "A" attached hereto and incorporated herein by reference, on a portion of the Emerson Junior High School site ("Site"), as a lease-leaseback project whereby the District will lease the Site which the District owns to K & B ELECTRIC, 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, 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, and 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 obtained proposals from prequalified contractors for the purpose of selecting a lease-leaseback contractor to provide the services necessary to complete the Project;

WHEREAS, upon review of the proposal submitted, the District selected Contractor as the lease-leaseback contractor for this Project;

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 Contractor, and a Sublease Agreement which provides for the sublease of the Site and the lease of the Project by Contractor to the District, and that certain other action be taken and authorized;

WHEREAS, the Sublease includes construction provisions with which Contractor 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 the Site Lease and the Sublease agreement for the Project (“Plans and Specifications”);

WHEREAS, the Plans and Specifications for the Project have been deemed “Exempt” pursuant the Division of State Architect (“DSA”) IR A-22 and Section 4-315, Part 1 of the California Administration Code;

WHEREAS, the Board has been presented with the Energy Expenditure Plans and Energy Conservation Measures 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 Proposition 39 allocation approved by the California Energy Commission and related utility rebates 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. Approval of Agreements with Contractor. The form of agreement entitled "Site Lease," the form of agreement entitled "Sublease Agreement," and the form of the agreement entitled “Construction Services Agreement,” attached hereto as Exhibit “B”, each presented to this meeting and each to be entered into by and between the District and Contractor which together provide generally for (i) the lease by the District of the Site to Contractor, (ii) the sublease of the Site and the lease of the Project by Contractor 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 Contractor 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 Hundred Forty-eight Thousand Two Hundred Ninety-one (\$348,291) plus a District Contingency amount of Ten Thousand (\$10,000), for a total amount of Three Hundred Fifty-eight Thousand Two Hundred Ninety-one (\$358,291), 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 Energy Expenditure Plan for the Project, 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 Energy Conservation Measures, 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 execute and deliver the Site Lease and Sublease as provided by Section 2 above, execute and deliver documents and/or negotiate documents with Contractor, 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 17th day of November, 2016 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 the 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 ____ day of _____ 2016, by the following forgoing vote.

Clerk of the Board of Education
Davis Joint Unified School District

LIST OF EXHIBITS (attached)

EXHIBIT "A"	Project Description
EXHIBIT "B"	Site Lease, Sublease Agreement and Construction Services Agreement

EXHIBIT “A”

Project Description

EXHIBIT “B”

Site Lease, Sublease Agreement and Construction Services Agreement