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OAKLAND UNIFIED
SCHOOL DISTRICT

Continuity of Service, Honoring the Past

Memo

To Board of Education

From Jacqueline Minor, General Counsel

Board Meeting Date November 4, 2015

Subject **Adoption by the Board of Education of Resolution No. 1516-0103 authorizing Design-Build Construction of Dr. Marcus Foster Educational Campus and Dewey Academy High School and authorizing the Superintendent to enter into a contract with a qualified Design-Build Entity pursuant to an RFP process and Education Code Section 17250.10 et seq**

Action Requested **Adoption by the Board of Education of Resolution No. 1516-0103 authorizing Design-Build Construction of Dr. Marcus Foster Educational Campus and Dewey Academy High School and authorizing the Superintendent to enter into a contract with a qualified Design-Build Entity pursuant to an RFP process and Education Code Section 17250.10 et seq**

Background and Discussion

In October 2014 the Board of Education expressed its intent to construct a new Education Leadership Campus to be called the Dr. Marcus Foster Educational Learning Campus (the "Project") by January 2019. District staff estimates the cost to construct the Project to be approximately \$75 to \$100 million dollars.

Education Code section 17250.10 et seq. provides that, upon the governing board's determination that it is in the best interest of the school district, the governing board may enter into a design-build contract for both the design and construction of a school facility if that expenditure exceeds \$2,500,000, and if, after evaluation of the traditional design-bid-build process of school construction and of the design-build process in a public meeting, the governing board makes written findings that use of the design-build process on the specific project under consideration will accomplish one or more of the following objectives:

1. Reduce comparable project costs,
2. Expedite the project's completion, or
3. Provide features not achievable through the traditional design-bid-build method;



District staff has examined possible construction delivery methods for the Project and has concluded that the use of a design-build delivery method for the Project offers the following potential advantages to the District not available under a traditional design-bid-build delivery method:

1. Because the designer and builder are part of the same design-build entity, and the District is not the guarantor of the completeness and accuracy of the work of the architect / engineer, the District may avoid conflicts and disputes and the corresponding costs of those conflicts and disputes that can arise between the architect / engineer and construction contractor.
2. The builder is involved in the design process from the beginning and can provide helpful insights on construction materials and methods that can make the design more efficient and less costly to construct.
3. By overlapping design and construction to some extent, and by potentially reducing conflicts between designer and builder, design-build can deliver a project faster than the design-bid-build approach.
4. The design-build method enables the District to determine the cost of the Project now instead of after Division of the State Architect approval and bidding.
5. By soliciting responses from potential design-build entities to a Request to Prequalify and for Qualifications, including the adapted prequalification questionnaire drafted by the Department of Industrial Relations as required by Education Code section 17250.25, by scoring both the RFQ and the Prequalification Questionnaire as indicated therein, and as provided in the Scoring Sheet: Prequalification Questionnaire (DIR) and Qualification Statement, the District may request detailed proposals from a pool of potential design-build entities that meet certain minimum criteria for experience and competency in design-build construction.

District Staff is therefore recommending to the Board that as authorized by Education Code section 17250.10 et seq. that it is in the best interest of the District to enter into a design-build contract with a design-build entity that is able to provide appropriately licensed contracting, architectural, and engineering services to design the Project based on the criteria furnished by the District and to construct the same based on detailed construction documents prepared by the successful design-build entity as approved by the Division of the State Architect and the District. The Superintendent is therefore authorized to:



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- 1) Issue a RFQ and implement the RFQ scoring process;
 - 2) Issue a Prequalification Questionnaire and implement a prequalification scoring process; and
 - 3) Begin a best-value selection process as indicated in Education Code section 17250.25(c)(2).

Recommendation

Adoption by the Board of Education of Resolution No. 1516-0103 authorizing Design-Build Construction of Dr. Marcus Foster Educational Campus and Dewey Academy High School and authorizing the Superintendent to enter into a contract with a qualified Design-Build Entity pursuant to an RFP process and Education Code Section 17250.10 *et seq*

Fiscal Impact

N/A

Attachment

Resolution No. 1516-0103

**Authorizing Design-Build Construction of Dr. Marcus Foster Educational Campus
and Dewey Academy High School and Authorizing the Superintendent to enter into
a Contract with a Qualified Design-Build Entity Pursuant to an RFP process and
Education Code Section 17250.10 et seq**

RESOLUTION NO. 1516-0103

WHEREAS, in October 2014 the Board of Education expressed its intent to construct a new Education Leadership Campus (the "Project"):

"The Board of Education hereby establishes its intent to construct an Education Leadership Complex at the 1025 and 1105 Second Avenue property to: 1) House all OUSD central administrative and leadership functions and employees, including relocating all offices and employees stationed currently at various school campuses; and 2) Retain and enhance the Dewey Academy High School facility in a manner consistent with OUSD's vision of high schools preparing all students to succeed in college, career, and community. Furthermore, the Board of Education's intent is to complete construction of this Education Leadership Complex by January 2019."

WHEREAS, the Project will include:

- Dewey Academy at 31,000 square feet
- Educational Leadership Center at 78,000 square feet
- 403 parking spaces, based on City of Oakland requirements

WHEREAS, District staff estimates the cost to construct the Project to be approximately \$75 to \$100 million dollars;

WHEREAS, Education Code section 17250.10 et seq. provides that, upon the governing board's determination that it is in the best interest of the school district, the governing board may enter into a design-build contract for both the design and construction of a school facility if that expenditure exceeds \$2,500,000, and if, after evaluation of the traditional design-bid-build process of school construction and of the design-build process in a public meeting, the governing board makes written findings that use of the design-build process on the specific project under consideration will accomplish one or more of the following objectives:

1. Reduce comparable project costs,
2. Expedite the project's completion, or
3. Provide features not achievable through the traditional design-bid-build method; and

WHEREAS, District staff has examined possible construction delivery methods for the Project, including "traditional" design-bid-build, lease-leaseback as authorized by Education Code section 17406, as well as design-build as authorized by Education Code section 17250.10 et seq., and has concluded that the use of a design-build delivery method for the Project offers the following potential advantages to the District not available under a traditional design-bid-build delivery method:

1. Because the designer and builder are part of the same design-build entity, and the District is not the guarantor of the completeness and accuracy of the work of the architect / engineer, the District may avoid conflicts and disputes and the corresponding costs of those conflicts and disputes that can arise between the architect / engineer and construction contractor.
2. The builder is involved in the design process from the beginning and can provide helpful insights on construction materials and methods that can make the design more efficient and less costly to construct.
3. By overlapping design and construction to some extent, and by potentially reducing conflicts between designer and builder, design-build can deliver a project faster than the design-bid-build approach.
4. The design-build method enables the District to determine the cost of the Project now instead of after Division of the State Architect approval and bidding.
5. By soliciting responses from potential design-build entities to a Request to Prequalify and for Qualifications, including the adapted prequalification questionnaire drafted by the Department of Industrial Relations as required by Education Code section 17250.25, by scoring both the RFQ and the Prequalification Questionnaire as indicated therein, and as provided in the Scoring Sheet: Prequalification Questionnaire (DIR) and Qualification Statement, the District may request detailed proposals from a pool of potential design-build entities that meet certain minimum criteria for experience and competency in design-build construction;

WHEREAS, at a public meeting on November 18, 2015, the Board evaluated the pros and cons of traditional design-bid-build versus the design-build delivery methods for the Project and considered alternate delivery methods available to the District to design and construct the Project, including traditional design-bid-build, lease-leaseback as permitted by Education Code section 17406, as well as design-build as permitted by Education Code section 17250.10 et seq;

WHEREAS, the Board has determined that it is in the best interest of the District to enter into a design-build contract with a design-build entity that is able to provide appropriately licensed contracting, architectural, and engineering services to design and construct the Project based on the Project criteria furnished by the District and based on detailed construction documents prepared by the successful design-build entity and approved by the Division of the State Architect and the District;

NOW THEREFORE, BE IT RESOLVED, that the Board of Education of the Oakland Unified School District hereby finds, determines, declares, orders, and resolves as follows:

1. The foregoing recitals are true and correct.
2. The Board has considered the alternate delivery methods available to the District to design and construct the Project, including traditional design-bid-build, lease-leaseback as permitted by Education Code section 17406, as well as design-build as permitted by Education Code section 17250.10 et seq.
3. Proceeding under a design-build construction delivery method as authorized by Education Code section 17250.10 et seq. offers advantages to the District not available under a traditional design-bid-build delivery method, namely:

- A. Because the designer and builder are part of the same design-build entity, and the District is not the guarantor of the completeness and accuracy of the work of the architect / engineer, the District may avoid conflicts and disputes that can arise between the architect / engineer and construction contractor.
 - B. The construction contractor is involved in the design process from the beginning and can provide helpful insights on construction materials and methods that can make the design more efficient and less costly to construct.
 - C. By overlapping design and construction to some extent, and by potentially reducing conflicts between designer and builder, design-build will deliver a project faster than the design-bid-build approach.
 - D. The design-build method enables the District to know the cost of the project now instead of after Division of the State Architect approval and bidding. Knowing actual costs now, while negotiating values with the insurance company, allows the District to make informed decisions on the insurance settlement.
 - E. By soliciting responses from potential design-build entities to the RFQ including Prequalification Questionnaire and implementing the approved prequalification scoring process, the District may request proposals via the RFP from a pool of potential design-build entities that meet certain minimum criteria for experience and competency in design-build construction.
- 4. It is in the best interest of the District to enter into a design-build contract with a design-build entity that is able to provide appropriately licensed contracting, architectural, and engineering services to design the Project based on the criteria furnished by the District and to construct the same based on detailed construction documents prepared by the successful design-build entity as approved by the Division of the State Architect and the District.
 - 5. That the District's superintendent or his designee is authorized to:
 - A. Issue a RFQ and implement the RFQ scoring process;
 - B. Issue a Prequalification Questionnaire and implement a prequalification scoring process; and
 - C. Begin a best-value selection process as indicated in Education Code section 17250.25(c)(2).
 - 6. That, upon the District's Evaluation Committee's review and ranking of the responses to the District's RFQ, the Superintendent or his designee is authorized to proceed with issuing to the highest ranked respondents a request for proposal for the Project and to continue to utilize a best-value selection process as indicated in Education Code section 17250.25(c)(2).
 - 7. That, upon the District's Evaluation Committee's review and ranking of the respondents to the RFP and negotiation (beginning with the highest ranked respondent until an acceptable proposed agreement is reached), the District's Evaluation Committee may recommend to the Board a qualified and appropriately licensed entity to perform design-build services as authorized by Education Code Section 17250.10 et seq. and shall bring to the Board for approval a proposed agreement with a said entity for that purpose.

APPROVED, PASSED, AND ADOPTED by the Governing Board of the Oakland Unified School District on this 18th day of November, 2015, by the following vote:

AYES: Roseann Torres, Shanthi Gonzales, Nina Senn, Jumoke Hinton Hodge, Vice President Jody London, President James Harris

NOES: None

ABSENT: Aimee Eng

ABSTAIN: None

I hereby certify that the foregoing is a full, true, and correct copy of a Resolution adopted at a Regular Meeting of the Governing Board of the Oakland Unified School District held on November 4, 2015.


Antwan Wilson
Superintendent & Board Secretary