

**Albuquerque Bilingual Academy**  
**ABA GC Special Meeting Minutes for Virtual Meeting**  
**Date: September 10, 2020**

<b>Board Members Present</b>	Brenda Baca, Doris Cole, Julian Munoz, Melissa Trujeque	
<b>Absent</b>	Jose Garcia	
<b>Others in Attendance</b>	Chris Jones, Danielle Miranda, Kyle Hunt, Patty Matthews	
<b>QUORUM</b>	<u> X </u> YES <u> </u> NO	
<b>Meeting called to order</b>	Brenda Baca called the meeting to order at <u>5:35 pm</u> & Roll Call by Brenda Baca	
<b>Item</b>	<b>Discussion</b>	<b>Action/Recommendation</b>
<b>Approval of the Agenda</b>	09/10/2020	Brenda Baca called for a motion to approve the agenda. Julian Munoz motioned. Melissa Trujeque seconded. -Brenda Baca called for a vote. GC approved unanimously by a vote of 4-0; 0 opposed; 0 abstained
<b>Special Issues (Discussion/Action)</b>		
<b>Sale or Lease of Property</b>	<p><i>*The attorney, Patricia Matthews, discussed the topics that are in the Memorandum attached hereto.</i></p> <p><u>Matthews:</u></p> <p style="text-align: center;">MEMORANDUM</p> <p>TO: Governing Council of Albuquerque Bilingual Academy  FROM: Patricia Matthews pm  DATE: 8.4.2020  RE: Summary of the Transaction between Earlier Learning Solutions Foundation, Inc., a New Mexico non-profit corporation (“Foundation”), and Albuquerque Bilingual Academy to acquire the land and facilities located at 7500 La Morada NW, Albuquerque, Bernalillo County, New Mexico 87120 by a Lease Purchase Arrangement</p> <p>A. GENERAL COMMENTS. In the Governing Council’s (“Council”) board packet the Council will find the Lease Purchase Arrangement (“LPA”) with all exhibits that will be sent to Public Education Department (“Department”). Counsel for the Foundation has approved the form of the LPA on behalf of the Foundation.</p> <p>B. TERMS OF TRANSACTION.</p> <ol style="list-style-type: none"> <li>1. The parties to the LPA are the School and Earlier Learning Solutions Foundation, Inc.</li> <li>2. The LPA includes provisions as required by the Public School Lease Purchase Act.</li> <li>3. Before the LPA can be submitted to the Department, the law requires that the Council approve the transaction and agreement by resolution. There is a form Resolution in your packet. The Resolution must accompany the LPA to the Department. Please have the President and Secretary sign the Resolution after a vote has been taken.</li> <li>4. The School will continue to pay rent under the terms of its current lease with the Foundation until the LPA is approved and executed. Once the Foundation’s Loan is closed, the current note between Park West Investors, LLC and the Foundation will be paid and the mortgage released, with no further obligations to Park West, LLC. After the LPA is closed the payment schedule attached as Exhibit B to the LPA will be in effect.</li> <li>5. Legal title to the property remains in Foundation until the School makes its final payment of the purchase price.</li> <li>6. Park West, LLC agreed to write down the payoff amount, which will be treated as a donation to the Foundation to meet the Foundation’s down payment obligation. That amount is approximately \$335,537.</li> </ol> <p>C. PRICE/PAYMENT TERMS.</p> <ol style="list-style-type: none"> <li>1. The LPA specifies a purchase price of \$6,983,000 (Six Million, Nine Hundred Eighty-Three Dollars and 00/100). See Exhibit B.</li> <li>2. The purchase price is amortized over 20 years.</li> <li>3. The interest rate on the purchase price is for the first 180 months (10 years) is the greater of (i) the 20-year-yield Constant Maturity Treasury Rate (“CMT”), plus 350 basis points or (ii) 5.7%; and beginning in the 181st month and through the 240th month of the term of the LPA, the interest rate will be reset at the greater of (i) the 10-year CMT, plus 350 basis points or (ii) 5.7%. for the term of the LPA. At no time will the interest rate be permitted to exceed the maximum set by the Public</li> </ol>	<p>Brenda Baca called for a motion to adopt this Resolution of the Albuquerque Bilingual Academy’s Governing Council wherein the Council expresses its intent to enter into the Lease Purchase Arrangement with Earlier Learning Solutions Foundation, Inc., a New Mexico non-profit corporation on the condition that the LPA is approved by the New Mexico Public Education Department as presented to us by staff and our legal counsel.</p> <p>Julian Munoz motioned. Melissa Trujeque seconded. -Brenda Baca called for a Roll Call Vote. GC approved unanimously by a vote of 4-0; 0 opposed; 0 abstained</p>

Securities Act (12.5%).

4. Attached to the LPA is Exhibit A, the property description; Exhibit B, the Base Rent Schedule (amortization schedule); and Exhibit C, ultimately to include the Department's approval letter along with the Public School Facilities Authority's (PSFA) approval letter (ABA has PSFA's letter already).

5. Exhibit B of the LPA breaks out the Base Rent payment showing the principal applied to the purchase price and interest paid each month. This is required by statute. It also shows the amount of the purchase price every month after each monthly payment is made.

6. The interest rate will be reset at month one of the 11th year (181st month) as described in paragraph 3. If the rate changes, the Foundation is required to notify the School by February 1 prior to the beginning of the fiscal year (July 1) in which the rate will increase. The Foundation is required to provide a revised Exhibit B to reflect the balance of the purchase price, and the new principal and interest payments (Base Rent).

7. Monthly payments will be \$48,827 for the first ten years and may increase beginning in the eleventh year. Payment is due on the 1st of each month and the School will be in default if not paid within 10 days from the due date or does not pay Additional Rent when it comes due.

8. The School will also pay Additional Rent in an amount to be reviewed and set each budget year. The Additional Rent includes owner's insurance premiums. The LPA provides that the Lessor is required to submit an annual budget on or before February 1 for any Additional Rents to be charged.

#### D. OTHER TERMS.

1. The School is responsible for all maintenance and repairs and must maintain the building to Statewide Adequacy Standards. The Lessor will have no responsibility for upkeep, or any other cost related to the facility.

2. The LPA must be approved by the Department prior to the Council's execution. Base and Additional Rent Payments on the LPA will not begin until the LPA is executed by the Foundation and School after Department approval.

3. The Resolution authorizes the President to approve minor changes to the LPA on advice of counsel and, after approval of the Department, to execute the LPA. However, if there are material changes to the LPA required by the Department, the Council will have to review and vote to approve those changes.

4. By law and the terms of the LPA, the School has no obligation to continue the lease from year to year, although it is a 20 year term. The Lessor, on the other hand, is bound to the lease for the term, unless the School defaults.

5. There is a prepayment penalty if the Foundation were to pay off the loan to RDF before the fifth year of its Loan. See Section 6.3. There is, consequently, the same prepayment penalty for paying of the LPA prior to the end of the fifth year of the LPA. After the fifth year, the School could prepay the entire purchase price without penalty.

6. There are specific reporting requirements as set forth in Section 17.2, which require the School to provide financial reports, audit information and other operational and academic information about the School over the course of the LPA. It is imperative that the School provide this information to the Foundation in a timely manner. The Foundation will have a parallel obligation to provide this information to RDF.

7. The School must comply with Financial Covenants as described in Section 5.6. Of primary importance is the debt coverage ratio. That is, the School must maintain sufficient funds to cover its rent obligations at a 1.15:1:00 ratio. The School will work with its business management contractor to ensure that the reporting and financial obligations are met. The Council should regularly request an update on any issues related to reporting or financial compliance.

8. The LPA also requires the School to budget for 100% of the annual lease obligation as well as 105% for the additional rent obligations. See section 5.3.

E. SOURCE OF FUNDS. The Source of Funds for Lease Purchase Arrangement document illustrates the sources of funds the School will use to pay for the monthly/annual obligations of the LPA. The School determined that it could meet the rental payments relying on the PSFA lease reimbursement grants and supplementing a portion of the rent payments with HB33 and SB9 mill levy proceeds. No operational funds are included as a source to pay rent. This document will be reviewed by the Department's School Budget officials.

#### F. OF NOTE.

1. Once executed, the facility is deemed a "public facility." According to law, the School may use mill levy proceeds from SB9 and HB33 to pay Base Rent, make

	<p>advance principal payments, and/or to make capital improvements to the property. This money may be used, if appropriate, to make certain repairs.</p> <p>2. The School must publish notice that it passed this resolution to acquire the facility through a lease purchase agreement. NMSA 1978, §22-26A-13 (Provided).</p> <p><u>Baca:</u> This is a meeting of the Albuquerque Bilingual Academy’s Governing Council for the purpose of considering the acquisition of its current site. The transaction contemplated is to acquire the land and improvements located at 7500 La Morada NW, Albuquerque, New Mexico 87120 from Earlier Learning Solutions Foundation, Inc. (“Foundation”), through a lease purchase arrangement as defined by the New Mexico Public Schools Lease Purchase Act. You have been provided a Summary of the Lease Purchase Arrangement Terms and Conditions, a copy of the Lease Purchase Arrangement with exhibits prepared by our attorneys, as well as a document titled “Source of Funds for Facility Payments Pursuant to the Lease Arrangement,” and a copy of the proposed Resolution concerning the Lease Purchase Arrangement. Is there a motion regarding Resolution concerning the Lease Purchase Arrangement?</p> <p><u>Munoz:</u> I move to adopt this Resolution of the Albuquerque Bilingual Academy’s Governing Council wherein the Council expresses its intent to enter into the Lease Purchase Arrangement with Earlier Learning Solutions Foundation, Inc., a New Mexico non- profit corporation on the condition that the LPA is approved by the New Mexico Public Education Department as presented to us by staff and our legal counsel.</p> <p><u>Trujeque:</u> I Melissa will second the motion</p> <p><u>Munoz:</u> BEFORE WE VOTE, ARE THERE ANY QUESTIONS OR COMMENTS FROM THE STAFF OR THE PUBLIC REGARDING THE LPA?</p> <p><u>Baca:</u> I am going to call for a Roll Call Vote on this issue.</p>	
<b>Head Administrator Updates</b>	N/A	
<b>Public Comment</b>	N/A	
<b>Announcement of Next GC Meeting</b>	Next GC meeting: <u><b>Monday, September 28, 2020; 5:30 pm</b></u>	Brenda Baca asked for a motion to adjourn. Julian Munoz motioned. Melissa Trujeque seconded.
<b>Adjourn</b>	Meeting was adjourned at 6:20pm	-Brenda Baca called for a vote. GC approved unanimously by a vote of 4-0; 0 opposed; 0 abstained