

CARDIFF SCHOOL DISTRICT
1888 Montgomery Avenue
Cardiff-by-the-Sea, California

NOTICE OF SPECIAL MEETING

Written notice is hereby given in accordance with Education Code Section 35144, Government Code 54956, and other applicable law, that the following Special Meeting of the Board of Trustees of the Cardiff School District will be held on:

SATURDAY, JULY 2, 2022 • 6:00PM • PUBLIC MEETING
ADA HARRIS SCHOOL AUDITORIUM • 1508 WINDSOR ROAD • CARDIFF-BY-THE-SEA, CA 92007

The public's health and well-being are a top priority for the Board of Trustees of the Cardiff School District and you are urged to take all appropriate health and safety precautions.

In compliance with the Americans with Disabilities Act, if you need special assistance, disability-related modifications, or accommodations, including auxiliary aids or services, in order to participate in the public meetings of the District's Board of Trustees, please contact the Office of the Superintendent at (760) 632-5890, Extension 101. Notification 24 hours prior to the meeting will enable the District to make the necessary arrangements to ensure accommodation and accessibility to this meeting.

The business to be transacted at the meeting shall be limited to the following:

I. ORGANIZATIONAL ITEMS

- A. Call to Order
- B. Pledge of Allegiance
- C. Roll Call
 - Ms. Rhea Stewart, President
 - Mr. Nancy Orr, Clerk
 - Ms. Siena Randall, Member
 - Mr. Dave Clark, Member
 - Mr. Shad Thielman, Member
 - Ms. Jill Vinson, Superintendent

- D. Approve Agenda for July 2, 2022 *(All items are action unless labeled information)*

II. HEARING SESSION

A. Public Comments

At a special meeting, only items listed on the agenda may be addressed in public comment. [GC 54954.3 (a)] The purpose of the Board meeting is to conduct the School Board's business in public. The Board welcomes and encourages public comments, however, in accordance with the Brown Act, Board members may not respond to comments during the public comment portion of the agenda. Any member of the public who wishes to address the Board on an item on the agenda or on another topic which lies within the Governing Board's jurisdiction may do so, but must submit a written request. Presentations are limited to 3 minutes per person per topic. The total amount of time to be allowed on any item is fifteen minutes, unless the time limit is waived by a majority vote of the Board. The Board may 1) acknowledge receipt of the information; 2) refer to staff for further study; or 3) refer the matter to a future agenda.

III. FACILITIES

- A. Approve [Fourth Amendment](#) to the Contract between Cardiff School District and McCarthy Building Companies, Inc.
- B. [Approve Amendments to the Following Facilities Contracts:](#) Studio E Architects, Twining Consulting, Blue Coast Consulting, and Professional Services with Bond Program Manager

IV. BUSINESS AND FINANCE

- A. Approve [Resolution 22-23-01](#) Authorizing the Execution and Delivery of an Amendment to Lease and Sublease Agreement and Related Documents and Action

V. PERSONNEL

- A. Approve Recommended Candidate, Employee #602933, as District Technology Coordinator for the Cardiff School District, effective July 20, 2022

VI. FUTURE AGENDA ITEMS

VII. ANNOUNCEMENT: ADJOURNING TO CLOSED SESSION

- A. Conference with Legal Counsel- Anticipated Litigation- Significant exposure to litigation pursuant to Government Code section 54956.9(d)(2): (ONE potential case)

VIII. RECONVENE TO OPEN SESSION

IX. REPORT FROM CLOSED SESSION

X. ADJOURNMENT OF MEETING

Cardiff School District
Cardiff-By-The-Sea, California 92007
July 2, 2022

ITEM: APPROVAL OF FOURTH AMENDMENT TO THE CONTRACT
WITH MCCARTHY BUILDING COMPANIES, INC.

BACKGROUND

In November 2016, the community of Cardiff passed Measure GG, a \$22 million bond for the improvement to Cardiff and Ada Harris School facilities including the Cardiff School Modernization and Reconstruction Project ("Project"). District staff then undertook the planning, design and ultimately the construction of the Project, beginning with the procurement of the services of various contractors to provide design, construction and/or other consulting services to the District.

On or about September 14, 2017, the District entered into a Lease-Leaseback ("LLB") contract with McCarthy Building Companies, Inc. ("McCarthy") for the construction services necessary for completion of the Project. The LLB contract consisted of a Construction Services Agreement, a Site Lease and Sublease on or about (collectively, the "LLB Contract Documents").

In June 2019, construction began on the Project, although delays were experienced due to litigation commenced against the District in state court by a group of local neighbors primarily related to a 1993 Land and Water Conservation Fund ("LWCF") grant agreement applicable to the Cardiff School property. The District ultimately entered into a settlement agreement resolving the state court lawsuit that deferred the LWCF issues/approvals to the applicable agencies, the National Park Service ("NPS") and the California Department of Parks and Recreation, Office of Grants and Local Services (OGALS).

In April 2020, the District received an unconditional conversion approval that resolved all past and current LWCF issues on the property and that allowed all remaining construction work on the Project to commence, including the multipurpose room (Building L). Unfortunately, a second lawsuit was commenced by the neighbors against the NPS in federal court in the summer of 2020. This litigation resulted in NPS, for what the District understands is the first time in the history of the LWCF program, rescinding an unconditional approval in September 2020. As a result, construction on Building L was halted and the portion of the building constructed to date was secured and protected. Building L and the remaining improvements subject to the LWCF agreement were then scheduled to be completed in one or more subsequent phases once approvals were again obtained by the NPS and/or OGALS.

Since the time of NPS' unprecedented rescission in the fall of 2020, the District has continued to work with and through OGALS to resolve the remaining LWCF grant agreement issues. These efforts have resulted in numerous individual approvals for the Project for almost all of the remaining improvements within the grant agreement area, including, but not limited to, the hard courts, play apparatus, outdoor plaza, parking lot, stormwater biofiltration basins, walkways, and landscaping. Construction of these

improvements were completed by McCarthy pursuant to the First, Second, and Third Amendments to the LLB Contract Documents, leaving only Building L and the adjacent northern playfield turf incomplete.

On Friday, July 1, 2022, these efforts finally resulted in the resolution of all remaining LWCF issues related to the Project. Accordingly, the District can now proceed with entering into the contracts for completion of Building L and the restoration of the remaining turf. The appropriate amendment necessary for McCarthy to complete this construction has been prepared as the Fourth Amendment to the Contract.

CURRENT CONSIDERATIONS

Since the inception of the Project, the costs of the construction delays as well as the legal fees incurred by the District due to the litigation initiated by the Project opponents have impacted the District's available funding sources for the Project construction. This includes the Capital Facilities Fund dollars that the District contributed from its General Fund to meet the Guaranteed Maximum Price (GMP) of the Project as well as the Measure GG funds which have been expended. In addition to these issues, in the approximately two years since the last work stoppage on Building L, construction cost escalation has been extremely high, due to ever increasing inflation and supply chain issues which reached historic levels over this past year. Accordingly, any additional delay in seeking to complete construction could result in potential construction cost increases of 10%-15% or more depending on the delay. Likewise, interest rates are also currently increasing, causing the cost of borrowing to continue to escalate the longer the District waits to pursue funding to complete the Project.

FINANCIAL IMPLICATIONS

Approval of this item will delegate authority to and direct the Superintendent to finalize and execute the Fourth Amendment for the proposed guaranteed maximum price of \$3,359,738.

RECOMMENDATION

It is respectfully recommended that the Board approve the fourth amendment to the contract agreement between Cardiff School District and McCarthy Building Companies.

CARDIFF ELEMENTARY SCHOOL MODERNIZATION AND RECONSTRUCTION
GUARANTEED MAXIMUM PRICE SUMMARY



6/3/2022

Scope of Work as Identified in Increment 1 Drawings and Specifications dated April 10th, 2019, Addenda A Documents dated May 17th, 2019, and Increment 2 Drawings and Specifications approved by DSA October 30, 2019, Including:

Demolition of Existing Classroom and Multipurpose Buildings
 New Construction of Buildings A, B, C, D, F, J, and L
 Modernization of Buildings E and M
 New Site Construction and Improvements including Landscaping and Utilities
 Coordination of Removal, Storage and Reinstall of Existing FF&E

Net Costs of all Construction (inclusive of Cost Alternates)	\$17,510,378
Sub Bonds/CDI	\$196,676
Subtotal	\$17,707,055
Contracting Contingency	\$354,141
General Conditions	\$1,539,707
Subtotal	\$19,600,903
Liability Insurance	\$180,689
Builders Risk	\$208,466
McCarthy Bond	\$155,767
Subtotal	\$20,145,825
Fee	\$623,067
TOTAL GMP (6/5/2019)	\$20,768,892
Amendment #2 - Suspension of Work Notice Delay Impacts	\$1,123,049
Amendment #3 - West Parking Lot Completion	\$272,007
Amendment #4 - Building L Completion	\$3,359,738
Total GMP (06/03/2022)	\$25,523,686

Cardiff School District
Cardiff-By-The-Sea, California 92007
July 2, 2022

ITEM: APPROVE AMENDMENTS TO THE FOLLOWING FACILITIES
CONTRACTS: STUDIO E ARCHITECTS, TWINING CONSULTING,
BLUE COAST CONSULTING, AND PROFESSIONAL SERVICES
AGREEMENT WITH BOND PROGRAM MANAGER

BACKGROUND

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On or about September 14, 2017, the District entered into a Lease-Leaseback ("LLB") contract with McCarthy Building Companies, Inc. ("McCarthy") for the construction services necessary for completion of the Project. The LLB contract consisted of a Construction Services Agreement, a Site Lease and Sublease on or about (collectively, the "LLB Contract Documents").

In June 2019, construction began on the Project, although delays were experienced due to litigation commenced against the District in state court by a group of local neighbors primarily related to a 1993 Land and Water Conservation Fund ("LWCF") grant agreement applicable to the Cardiff School property. The District ultimately entered into a settlement agreement resolving the state court lawsuit that deferred the LWCF issues/approvals to the applicable agencies, the National Park Service ("NPS") and the California Department of Parks and Recreation, Office of Grants and Local Services (OGALS).

In April 2020, the District received an unconditional conversion approval that resolved all past and current LWCF issues on the property and that allowed all remaining construction work on the Project to commence, including the multipurpose room (Building L). Unfortunately, a second lawsuit was commenced by the neighbors against the NPS in federal court in the summer of 2020. This litigation resulted in NPS, for what the District understands is the first time in the history of the LWCF program, rescinding an unconditional approval in September 2020. As a result, construction on Building L was halted and the portion of the building constructed to date was secured and protected. Building L and the remaining improvements subject to the LWCF agreement were then scheduled to be completed in one or more subsequent phases once approvals were again obtained by the NPS and/or OGALS.

Since the time of NPS' unprecedented rescission in the fall of 2020, the District has continued to work with and through OGALS to resolve the remaining LWCF grant agreement issues. These efforts have resulted in numerous individual approvals for the Project for almost all of the remaining improvements within the grant agreement area, including, but not limited to, the hard courts, play apparatus, outdoor plaza, parking lot, stormwater biofiltration basins, walkways, and landscaping. Construction of these improvements were completed by McCarthy pursuant to the First, Second, and Third Amendments to the LLB Contract Documents, leaving only Building L and the adjacent northern playfield turf incomplete.

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CURRENT CONSIDERATIONS

Since the inception of the Project, the costs of the construction delays as well as the legal fees incurred by the District due to the litigation initiated by the Project opponents have impacted the District's available funding sources for the Project construction. This includes the Capital Facilities Fund dollars that the District contributed from its General Fund to meet the Guaranteed Maximum Price (GMP) of the Project as well as the Measure GG funds which have been expended. In addition to these issues, in the approximately two years since the last work stoppage on Building L, construction cost escalation has been extremely high, due to ever increasing inflation and supply chain issues which reached historic levels over this past year. Accordingly, any additional delay in seeking to complete construction could result in potential construction cost increases of 10%-15% or more depending on the delay. Likewise, interest rates are also currently increasing, causing the cost of borrowing to continue to escalate the longer the District waits to pursue funding to complete the Project.

FINANCIAL IMPLICATIONS

The approval of these amendments with contractors will not exceed the following:

Studio E Architects: \$97,380

Blue Coast Consulting: \$84,400

Twining Consulting: \$21,055

Bond Program Manager: \$159,368

RECOMMENDATION

It is respectfully recommended that the Board approve the amendments to the following facilities contracts: Studio E Architects, Twining Consulting, Blue Coast Consulting, and Professional Services with Bond Program Manager.

Cardiff School District
Cardiff-By-The-Sea, California 92007
July 2, 2022

ITEM: APPROVE RESOLUTION 22-23-01 OF THE BOARD OF TRUSTEES OF THE CARDIFF SCHOOL DISTRICT AUTHORIZING THE EXECUTION AND DELIVERY OF A LEASE AND SUBLEASE AGREEMENT

BACKGROUND

In November 2016, the community of Cardiff passed Measure GG, a \$22 million bond for the improvement to Cardiff and Ada Harris School facilities including the Cardiff School Modernization and Reconstruction Project ("Project"). District staff then undertook the planning, design and ultimately the construction of the Project, beginning with the procurement of the services of various contractors to provide design, construction and/or other consulting services to the District.

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FINANCIAL IMPLICATIONS

The cost of the construction delays, legal fees and other costs to the District related to the Project have already exceeded millions of dollars and resulted in the removal of Building H from the Project. Due to the delays, the cost to complete Building L more than doubled from the original budgeted amount. Given the current pace of construction cost escalation delaying the Project by even a short number of months could result in additional construction costs of \$500,000 or more depending on the future pace of inflation and construction cost escalation.

The approval and execution of the lease and sublease agreement will result in the funding necessary for project completion, which must be executed and closed by July 7, 2022 in order to preserve the current interest rate lock.

RECOMMENDATION

It is respectfully recommended that the Board approve Resolution 22-23-01 to authorize the execution and delivery of a lease and sublease agreement.

RESOLUTION NO. 22-23-01

RESOLUTION OF THE BOARD OF TRUSTEES OF THE CARDIFF SCHOOL DISTRICT AUTHORIZING THE EXECUTION AND DELIVERY OF AN AMENDMENT TO LEASE AND SUBLEASE AGREEMENT AND RELATED DOCUMENTS AND ACTIONS

WHEREAS, the Cardiff School District (the “District”) wishes to finance the acquisition and improvement of real property to be used by the District for educational purposes (the “Project”)

WHEREAS, the District is authorized by the California Education Code (the “Education Code”), including Section 17456 and following, to lease real property to a nonprofit organization formed in part to assist local agencies in obtaining financing, and to simultaneously lease such property back and obtain financing thereby for the purpose of making capital improvements to school facilities; and

WHEREAS, on June 3, 2020, the District entered into a Lease and Sublease Agreement (the “Lease Agreement”), between the District and the Local Facilities Finance Corporation (the “Corporation”), whereby the District leased the Leased Property (defined below) to the Corporation in consideration of the agreement by the Corporation to provide funds to finance the Project, and the Corporation subleased the Leased Property back to the District in consideration of the payment of semi-annual lease payments (the “Lease Payments”) by the District as rental for the Leased Property; and

WHEREAS, pursuant to Section 17150.1 of the Education Code, the District has provided the required notice of proposed non-voter approved debt to the San Diego County Auditor-Controller and Superintendent of Schools; and

WHEREAS, Section 7.6 of the Lease Agreement authorizes the District and the Corporation to amend the provisions of the Lease Agreement; and

WHEREAS, in order to obtain additional financing required for the Project, the District has determined at this time to authorize the execution and delivery of a First Amendment to Lease and Sublease Agreement (the “Lease Amendment”) to provide for the payment of additional rental payments (the “Supplemental Lease Payments”) for the use and occupancy of the Leased Property, in an aggregate principal amount not to exceed \$4,000,000, the net proceeds of which will be applied to the payment of the costs of the Project; and

WHEREAS, the Supplemental Lease Payments made by the District under the Lease Agreement, as amended, will be assigned to the Lender (as defined below); and

WHEREAS, District staff, working with the District’s financial advisor and placement agent, have requested and received proposals from banking institutions to provide financing as described herein, and Capital One Public Funding, LLC (the “Lender”), has offered the most beneficial financings terms to the District, which terms expire on July 7, 2022; and

WHEREAS, as required by Government Code Section 5852.1, attached as Exhibit A hereto is information relating to the Lease that has been obtained by the Board of Trustees (the "Board") and is hereby disclosed and made public; and

WHEREAS, the Board wishes at this time to approve the proceedings described herein to finance the Project and to approve all related documents and actions;

NOW, THEREFORE, IT IS HEREBY RESOLVED by the Board of Trustees of the Cardiff School District as follows:

Section 1. Recitals. The foregoing recitals are true and correct.

Section 2. Approval of Financing Proceedings. The Board hereby approves the financing of the Project. To that end, the Board hereby approves First Amendment to Lease Agreement (the "Amendment") whereby the District and the Bank agree to amend and supplement the Lease Agreement to provide for payment of the Supplemental Lease Payments, in substantially its form on file with the Clerk of the Board, together with any changes therein or additions thereto approved by the President of the Board, the Secretary to the Board, the Clerk of the Board, the Superintendent of the District or the Chief Business Officer of the District (each, an "Authorized Officer"), provided that the execution thereof by an Authorized Officer shall be conclusive evidence of such approval.

The real property and related facilities that serve as the subject of the Lease Agreement, as amended by the Lease Amendment, shall be the Ada W. Harris Elementary School (the "Leased Property").

An Authorized Officer is hereby authorized and directed for and in the name and on behalf of the District to execute the Amendment, and the Clerk of the Board is hereby authorized and directed to attest to the final form of each of the foregoing documents.

Section 3. Material Terms of Lease Agreement. The aggregate principal amount of the Supplemental Lease Payments shall not exceed \$4,000,000, the interest components of the Supplemental Lease Payments shall be computed at an interest rate not to exceed 5.0% per annum, and the original term of the Lease Agreement, as amended by the Lease Amendment, shall not extend more than 30 years from the date of the Lease Amendment.

Section 4. Payment of Financing Costs. All costs and expenses of professional and legal services in connection with the financing plan described herein are contingent upon the successful delivery of the Lease Agreement. Such costs and expenses, together with all other financing costs relating to the transactions described in this Resolution, shall be paid as provided in a costs of issuance custodian agreement to be executed by an Authorized Officer. Isom Advisors, a Division of Urban Futures, Inc., shall serve as the District's financial advisor, and Jones Hall, A Professional Law Corporation, shall serve as the District's special counsel, in connection with the proceedings described herein. Brandis Tallman LLC shall serve as the District's placement agent and an Authorized Officer is authorized to execute a placement agent agreement.

Section 5. Official Actions. Each Authorized Officer, or any written designee of any such official, and all other officers of the Board and the District are each authorized and directed in the name and on behalf of the District to make or execute any and all

assignments, certificates, requisitions, agreements, notices, consents, instruments of conveyance, warrants, terminations and other documents, which they or any of them might deem necessary or appropriate in order to consummate any of the transactions contemplated by the agreements and documents approved under this Resolution, including but not limited to documentation providing for the deposit and administration of the proceeds of the Lease including with respect to the administration of funds and the execution of any documents or certifications that may be required in order to obtain a title insurance policy with respect to the Leased Property. Whenever in this resolution any officer of the District is authorized to execute or countersign any document or take any action, such execution, countersigning or action may be taken on behalf of such officer by any person designated by such officer to act on his or her behalf in the case such officer is absent or unavailable.

Section 6. Effective Date. This Resolution shall take effect from and after the date of its passage and adoption.

* * * * *

PASSED AND ADOPTED this 2nd day of July, 2022, by the following vote:

AYES:

NOES:

ABSENT:

COUNTERSIGNED:

President of the Board

Secretary to the Board

APPENDIX A

GOVERNMENT CODE SECTION 5852.1 DISCLOSURE

1. True Interest Cost of the Supplemental Lease Payments (Estimated All-In):
3.950084%
2. Finance charge of the Supplemental Lease Payments, being the sum of all fees and charges paid to third parties (Estimated): \$82,000.00
3. Net proceeds of the Supplemental Lease Payments expected to be received, net of proceeds for costs of issuance: (Estimated): \$ 3,850,000.00
4. Total Payment Amount for the Supplemental Lease Payments through maturity: \$6,081,830.00

**Information based on estimates made in good faith by the District's financial advisor, including certain assumptions regarding rates available in the bond market at the time of executing the Lease Amendment.*