



DANNIS WOLIVER KELLEY

CONFIDENTIAL MEMORANDUM

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TO: Dr. Rupi Boyd
Superintendent
Soledad Unified School District
1261 Metz Rd.
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FROM: Samuel R. Santana

DATE: October 14, 2015

RE: Soledad Unified School District's Proposed Construction Project;
Our file 7727.10215

At your request, we have provided information in order to answer various questions that have been posed regarding the Soledad Unified School District's ("District") proposed construction project and the use of funds for the construction of such project.

1. What does the prequalification resolution on tonight's board agenda mean?

a. The District's prequalification resolution is being presented to the Board in order for the Board to consider approving a prequalification process and questionnaire prepared by our office for contractors to complete. The prequalification process is required by the state in order for the District to apply for state matching funds, if such funds become available in the future. If state funds do become available, the District will apply to receive funds back from the state for some of the funds expended for construction of the middle school. The state funds can then be used to update facilities or build new schools. If and when such funds become available from the state, the District plans to apply for those funds for use on two elementary schools that need to be modernized. The cost to build a small elementary school is typically \$20-25 million.

b. A preliminary services contract for a lease leaseback project delivery has been awarded to Blach Construction Company to assist with the preliminary planning to build the new middle school. The board awarded the contract last year.

2. What happened to the bond money?

a. Bond funds that have been issued are deposited with Monterey County Office of Education ("County"). An initial issuance of \$6 million was deposited with the County after the bond passed. Another \$20 million was issued and deposited with the County to assist in selecting an architecture firm and a construction company to start the planning and construction process. The remaining \$14 million is authorized under the original bond



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authorization, but has not been issued yet. The District will issue the remaining bonds to pay for the project once it gets underway.

b. When issuing bonds, the District is required to use the bond funds within a certain amount of time in order to comply with arbitrage requirements imposed by the Internal Revenue Service ("I.R.S."). Under I.R.S. regulations, the District cannot issue bonds and deposit the funds and earn interest for an extended period of time, there must be a plan that shows the District is using the funds for the intended purpose.

c. The bond funds are deposited in a County called fund 21 on the District financial reports.

3. The resolution states the superintendent will have total control over who gets the bid for construction.

a. That is inaccurate. Under California law, the only authority for selecting vendors and granting contracts is given to the governing board of a school district. The superintendent does not have the authority to select or approve construction contracts; only the board can approve such items in an open board meeting. The board approved Blach Construction Company to begin the first phase of the project via a preliminary services contract during the last school year. The resolution states the superintendent or designee will implement the process at the direction of the board and will collect the questionnaires from construction companies interested in doing the work for the District. The questionnaires will be reviewed by District staff and presented to the board for direction in an open meeting.

4. Only poor districts that are cash strap use the LLB method.

a. That is inaccurate. Many different types of districts all over the state with various financial conditions use LLB as a construction project delivery method as authorized by the Education Code. The District considered various construction delivery methods for the middle school and found that LLB was a suitable construction delivery method because it provides a guaranteed maximum price and timely delivery of the project. One of the District's goals was to avoid sudden cost increases via change orders. The District wanted to build the new middle school within budget and on time. In addition, there is a contingency fee in case there are some unforeseen changes necessary. If this fee is not used for the benefit of the District, then it will be returned to the District.

Please do not hesitate to contact me if any additional questions arise.