

Board of Education

Mesa County Valley School District 51

Special Meeting

June 23, 2009

Business Meeting Minutes & Retreat Overview

A - Diann Rice
 B - Cindy Enos-Martinez
 C - Harry Butler
 D - Leslie Kiesler
 E - Ron Rowley

Board of Education

Mesa County Valley School District 51

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Adopted: August 18, 2009

| | A | B | C | D | E | AGENDA ITEM | ACTION |
|---------|---|---|---|---|---|--|----------------------|
| | | | | | | <u>Assistant Superintendent:</u> <ul style="list-style-type: none"> Prior to the business portion of the agenda, Mr. Schultz reported on a recent community survey, the <i>2009 Mesa County Health and Assessment Quality of Life Survey</i>, which named a strength area of community life as being positive trends in the perception of local public education. The survey is done randomly and is from an independent source. | 8:00 am |
| Present | x | x | x | x | x | A. Call to Order / Roll Call | 8:06 am |
| Absent | | | | | | | |
| Motion | | | | | x | B. Agenda Approval | Adopted as Presented |
| Second | x | x | x | x | x | | |
| Aye | x | | | | | | |
| No | | | | | | | |
| Motion | | | x | | x | C. Energy Performance Construction Contract [Resolution 08/09: 136] | Adopted |
| Second | x | x | x | x | x | <ul style="list-style-type: none"> Mr. Rowley asked questions and engaged discussion regarding insulation projects, and the possible use of a geo-thermal heat pump at Grand Junction High School (GJHS) for energy savings. Appropriate lighting levels were also discussed. Mr. Jim Knutson from the Trane Corporation indicated the GJHS project is considered critical for Phase I, and additional energy conservation measures will be addressed in Phase II. He explained the geo-thermal heat pump was not considered to be the right application for the high school, as it could not be retrofitted. The payback potential was a major consideration. Mr. David Price, attorney for the school district, presented a draft Energy Performance Contract between Mesa County Valley School District 51 and Trane U.S., Inc. Mr. Price reviewed with the Board the provisions of the contract; the schedules and the exhibits. He reported additional documentation is near completion detailing the existing state of all the district facilities. Contract termination and dispute resolution was also reviewed. Mr. Price indicated monitoring and verification of savings would be provided annually. The resolution brought forward for Board adoption approves the contract, subject to final review and approval of the District's legal counsel and authorizes and directs the Assistant Superintendent, Mr. Schultz, to enter into and to execute the contract on behalf of the Board. Mr. Knutson explained how the Excel Energy Rebate Program works to provide financial savings, and expressed confidence that the District would receive the projected minimum amount through the prescriptive program. Board member discussion and comment included possible utilization of solar energy, staff behaviors to save energy, and the process for how future buildings would be added to the contract. Mr. Cal Clark, Mr. Eric Anderson, and Mrs. Callahan deVita were present and provided additional information regarding the contract, energy savings, and the timeline for replacement of the GJHS boiler. A June 30, date of project mobilization is anticipated. | |
| Aye | | | | | | | |
| No | | | | | | | |

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|-------------------------------|--------|--------|---|---|--------|---|--|
| Motion Second Aye No | x | x x | x | x | x | <p>➤ Mr. Rowley asked about the possibility of putting into service the solar system which was previously installed at Mt. Garfield Middle School. That possibility will be investigated and reported back to the Board.</p> <p>D. Construction Financing Contract [Resolution 08/09: 135]</p> <p>➤ Discussion included the master equipment lease/purchase agreement, terms and interest rate.</p> <p>➤ Mr. Schultz conveyed his enthusiasm for being a leader in the State of Colorado to save money for the district.</p> <p>➤ Mrs. Callahan deVita thanked Mr. David Price for his work in this area.</p> <p>➤ Mr. Knutson from Trane thanked the entire team, and emphasized the benefit of providing improved learning environments for students.</p> | Adopted |
| Motion Second Aye No | x x | x x | x | x | x x | <p>E. Adjourn</p> <p><u>BOARD RETREAT</u></p> <p>➤ The Board engaged in a planning session for the 2009-2010 school year. Areas of discussion included the following topics:</p> <ul style="list-style-type: none"> • Review of Board Meeting and Board Retreat dates; • Agenda setting schedule; • Plans for school visits; • Review of committee representation; • Community meetings review and planning; • Communication processes; • Board budget review; • Community engagement planning; • Upcoming board policy development. <p>➤ Mr. Schultz, who will be starting in his new position as superintendent of schools July 1, 2009, presented his focus areas for the first quarter of the school year.</p> | <p>8:48 am</p> <p>9:00 am</p> <p>Concluded at 11:45 am</p> |
| | | | | | | <p>_____ Jamie Sidanycz, Secretary Board of Education</p> | |

**Energy Performance Contract
TRANE U.S., INC.**

Board of Education Resolution 08-09:136

Adopted: June 23, 2009

WHEREAS, the District and Trane U.S., Inc. (herein, the “Contractor”) entered into that certain Technical Energy Audit Contract dated February 10, 2009 (TEA Contract) pursuant to which Contractor conducted an audit of energy consumption and costs at District schools and other facilities to determine the feasibility and cost of implementing energy and utility cost saving measures for the District, and presented their findings and recommendations to the Board; and

WHEREAS, the District’s administration and Contractor have subsequently negotiated a proposed energy performance contract (EPC), a copy of which is attached hereto, as contemplated in section 2.A(ii) of the TEA Contract and section 29-12.5-101(3), C.R.S., for implementing an initial phase of the recommended energy saving measures, namely the replacement and expansion/upgrade of certain mechanical and HVAC equipment and systems at Grand Junction High School and the District-wide installation of energy efficient lighting and lighting control upgrades (together, the “Project”) and for the provision of certain ongoing maintenance, monitoring and verification services related to such measures (the “Services”).

WHEREAS, pursuant to the EPC, Contractor guarantees will achieve energy cost savings and operation and maintenance cost savings sufficient to substantially offset or exceed the cost of the Project and the Services; and

WHEREAS, the EPC calls for the District to pay a guaranteed maximum price of **\$4,102,761** (“Contract Sum”), which includes some deferred compensation for Trane’s work under the TEA Contract and all labor, materials, design, engineering, equipment and services provided or to be provided by the Contractor to complete the Project, plus **\$31,629** in annual recurring fees for the Services (which fees shall increase 2.5% each year during the Contract term);

WHEREAS, the EPC obligates the District to contribute up to **\$610,000** toward payment of the Contract Sum, with the balance to be financed through a lease-purchase agreement with Bank of America, N.A., which the Board has approved by a separate resolution of today’s date.

WHEREAS, pursuant to §29-12.5-103(a), C.R.S., Contractor guarantees in the EPC a level of energy and cost savings sufficient to cover the District’s lease payments as well as the Contractor’s annual monitoring and maintenance fees during the term of the Contract; and

WHEREAS, most, if not all, of the District’s capital contribution may be recouped through utility award or incentive payments the District expects to receive from

Xcel Energy upon completion of the Project, although the District's entitlement to such incentive or award payments is not guaranteed; and

WHEREAS, the attached EPC is not yet final and complete, as there are a number of schedules and exhibits that need to be completed and finalized; and

WHEREAS, the administration has recommended that the Contract be entered into on the same negotiated basis as the TEA Contract, thereby requiring, under Policy DJE, that the Board expressly waive application of the competitive bidding requirements of Board policy; and

WHEREAS, the Board has been fully advised as to the reasons therefor, and deems the same to be adequate justification for waiving the competitive bidding requirements of Board policy, and finds that it is in the interest of the District to enter into the EPC.

NOW, THEREFORE, RESOLVED that the Board of Education approves the attached EPC, subject to final review and approval of the District's legal counsel, and authorizes and directs the Assistant Superintendent to enter into and to execute on behalf of the Board a copy of same in form substantially similar to the attached copy, as soon as all the accompanying schedules, exhibits and appendices are finalized and complete and the District's legal counsel has approved same, without compliance with the competitive bidding requirements of Policy DJE.

I certify that the information contained herein is accurate and was adopted by the Mesa County Valley School District 51 Board of Education on June 23, 2009.

Jamie Sidanycz
Secretary, Board of Education

RESOLUTION

A RESOLUTION AUTHORIZING AND APPROVING THE EXECUTION AND DELIVERY OF A MASTER EQUIPMENT LEASE/PURCHASE AGREEMENT, AND RELATED DOCUMENTS AND CERTIFICATES IN CONNECTION THEREWITH.

WHEREAS, Mesa County Valley School District 51 (the “District”) is a duly and regularly created, organized and existing political subdivision of the State of Colorado and body corporate, existing as such under and by virtue of the Constitution, statutes and laws of the State of Colorado.

WHEREAS, the Board of Education (the “Board”) of the District, is authorized, pursuant to the Colorado Revised Statutes, to lease or rent undeveloped or improved real property or equipment on such terms as the Board sees fit for use by the District;

WHEREAS, the Board has determined and hereby determines that it is in the best interest of the District to finance the acquisition of energy and water savings conservation equipment and related systems (the “Project”); and

WHEREAS, for purposes of financing the Project, the Board has determined and hereby determines that it is in the interest of the District that the District and Bank of America, N.A., or its designee (the “Lessor”) enter into the Equipment Lease (as defined below) to provide for the lease of the Equipment (defined in the Equipment Lease below) by the District from the Lessor; and

WHEREAS, the Lessor desires to lease the Equipment to the District, and the District desires to lease the Equipment from the Lessor, pursuant to the terms and conditions and for the purpose set forth in the Master Equipment Lease/Purchase Agreement, dated as of the date thereof, by and between the Lessor and the District (the “Equipment Lease”); and

WHEREAS, the obligation of the District to pay Rent (as defined in the Equipment Lease) shall be from year to year only; shall constitute currently budgeted expenditures of the District; shall not constitute a mandatory charge or requirement in any ensuing budget year; and shall not constitute a general obligation, direct or indirect multiple-fiscal year obligation or other indebtedness of the District within the meaning of any constitutional or statutory limitation or requirement concerning the creation of indebtedness, nor a mandatory payment obligation of the District in any ensuing fiscal year beyond any fiscal year during which the Equipment Lease shall be in effect; and

Board of Education Resolution: 08/09: 135

WHEREAS, the Equipment Lease shall not directly or indirectly obligate the District to make any payments beyond those appropriated for any fiscal year during which the Equipment Lease shall be in effect; and

THEREFORE, BE IT RESOLVED BY THE BOARD OF EDUCATION OF MESA COUNTY VALLEY SCHOOL DISTRICT 51, IN THE COUNTY OF MESA AND IN THE STATE OF COLORADO:

1. The terms and provisions of the Equipment Lease and all exhibits and appendices thereto (collectively, the "Project Documents") are hereby approved in substantially the form presented to the Board and on file in the offices of the District, provided however, that the Project Documents may be further revised with such changes as may be agreed to by counsel to the District. Any officer of the Board of Education is hereby authorized to affix and to attest the official corporate seal of the District on, the Project Documents, with execution and delivery constituting conclusive, irrefutable evidence thereof.

2. The execution and delivery of the Project Documents by officers of the Board and the execution and delivery by officers of the Board of the District of related certificates documents as may be necessary or appropriate to effectuate the transactions contemplated by the Project Documents are hereby approved.

3. All actions not inconsistent with the provisions of this Resolution, heretofore taken by the directors, officers and employees of the District, directed toward the purposes stated herein ratified, approved and confirmed.

4. All prior acts, orders or resolutions, or parts thereof, by the District in conflict with this Resolution are hereby repealed, except that this repealer shall not be construed to revive any act, order or resolution, or part thereof, heretofore repealed.

5. If any section, paragraph, clause or provision of this Resolution shall be adjudged to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining sections, paragraphs, clauses or provisions of this Resolution, it being the intention that the various parts hereof are severable.

6. This Resolution shall take effect immediately upon its passage.

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ADOPTED AND APPROVED this 23rd day of June, 2009.

[DISTRICT SEAL]

President, Board of Education

ATTEST:

Secretary, Board of Education

STATE OF COLORADO)
)ss.
COUNTY OF MESA)

I, _____, the duly appointed, qualified and acting Secretary of the Board of Education (the "Board") of Mesa County Valley School District 51 ("District"), do hereby certify that the foregoing pages, numbered 1 to 2, inclusive, constitute a true and correct copy of a resolution of the Board of the District, adopted at a special meeting of the Board, held on the 23rd day of June, 2009, as recorded in the official Record of Proceedings of the District kept in my office; that said proceedings were duly had and taken; that the meeting was duly held; and that the resolution has not been amended or rescinded since its adoption and is in force and effect as of the date hereof.

WITNESS my hand and the seal of the District, this 23rd day of June, 2009.

Secretary

[DISTRICT SEAL]