

Board of Trustees Agenda Item

Board Meeting Date: October 4, 2010

Title of Item: Lease-Leaseback Construction Procurement Process for the District Data Center Project

Background and Analysis:

Information was provided to the Board on December 7, 2009 and January 19, 2010 concerning the use of a Lease-Leaseback construction procurement process for the Physical Sciences and Engineering Center at Foothill College and the Mediated Learning Center at De Anza College. The information included a discussion of the legal aspects of the process as well as the likely risks and benefits associated with construction of these two new facilities using the authority provided under the Education Code section 81335.

After extensive legal briefing and the posting of the requisite summons notifying the public of the intended Lease-Leaseback project delivery method under the Education Code section 81335, a default judgment was issued by the Santa Clara County Superior Court on August 31, 2010, which also confirmed the validity of the use of this procurement process.

Although smaller in dollar value than the Physical Sciences and Engineering Center at Foothill College and the Mediated Learning Center at De Anza College the District Data Center is the type of project that is appropriate for use of the Lease Leaseback delivery method. The construction budget for the District Data Center project is \$10,500,000 and it is funded jointly by Measure C and Measure E. The procurement process for this project will be consistent with the process used for the Physical Sciences and Engineering Center and the Mediated Learning Center, and it will include the same key decision / Board approval steps.

The Board will be requested to review and approve three key decisions and actions in the procurement process in the coming months. Target dates for key actions associated with the project are as follows:

- February 2011 - Approval of the Lease-Leaseback contractor
- February 2011 - Approval of a pre-construction services agreement for the Lease- Leaseback contractor
- July 2011 - Approval of a Site Lease and a Facilities Lease with the Lease- Leaseback contractor including a guaranteed maximum price for construction.

Recommendation: The Executive Director of Facilities and Operations recommends that the Board approve the initiation of a construction procurement process under the Lease-Leaseback provision of Education Code section 81335 for the District Data Center project subject to the subsequent Board approvals as noted.

Submitted by:	Charles Allen, Executive Director of Facilities and Operations
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Is backup provided?	No