



AGENDA REQUEST FORM

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

MEETING DATE 2020-05-19 10:05 - Regular School Board Meeting

Special Order Request
 Yes No

ITEM No.:
AA-3.

AGENDA ITEM ITEMS

Time

CATEGORY AA. RESOLUTIONS

DEPARTMENT Treasurer's Office

Open Agenda
 Yes No

TITLE:
Resolution No. 20-111 - Energy Master Equipment Lease/Purchase Agreement 2020

REQUESTED ACTION:
Adopt Resolution No. 20-111 - Energy Master Equipment Lease/Purchase Agreement 2020.

SUMMARY EXPLANATION AND BACKGROUND:
Resolution No. 20-111 will authorize the execution and delivery of a master equipment lease to provide the financing structure required in conjunction with Procurement's May 19, 2020 Regular School Board Meeting (RSBM) agenda item E-10. This item (AA-3) is contingent upon approval of Procurement's May 19, 2020 RSBM agenda item E-10.
See Supporting Docs for continuation of Summary Explanation and Background.
Documents reviewed as to form and content by Bond and General Counsel.

SCHOOL BOARD GOALS:
 Goal 1: High Quality Instruction Goal 2: Safe & Supportive Environment Goal 3: Effective Communication

FINANCIAL IMPACT:
Financial impact for the District will be approximately \$31,500.00 in bond/special tax counsel fees and will be paid from the Treasurer's Office budget.

EXHIBITS: (List)
(1) Executive Summary - Energy Master Equipment Lease 2020 (2) Resolution 20-111 (3) Exhibit A (4) Exhibit B (5) Exhibit C (6) Exhibit D

BOARD ACTION:
ADOPTED
(For Official School Board Records Office Only)

SOURCE OF ADDITIONAL INFORMATION:
Name: Ivan Perrone Phone: 754-321-1980
Name: Phone:

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
Senior Leader & Title

Judith M. Marte - Chief Financial Officer

Signature
Judith M. Marte
5/11/2020, 1:26:53 PM

Approved In Open Board Meeting On: **MAY 19 2020**
By: School Board Chair

EXECUTIVE SUMMARY
Resolution No. 20-111 – Energy Master Lease/Purchase Agreement 2020

Resolution No. 20-111 – Energy Master Lease/Purchase Agreement 2020 will authorize the execution and delivery of a master equipment lease with Banc of America Public Capital Corp (BAPCC) to provide the financing structure required in conjunction with Procurement’s May 19, 2020 Regular School Board Meeting (RSBM) agenda item E-10, Recommendation for Master Services Contract for Guaranteed Energy Performance Contracting Services with Johnson Controls, Inc., FY20-121 – Guaranteed Energy Performance Contracting Services. This item (AA-3) is contingent upon approval of Procurement’s May 19, 2020 RSBM agenda item E-10. This item is authorized by Section 1013.23 Florida Statutes, entitled “Energy Efficiency Contracting”. The Project Development Plan (PDP) entered into by the District and Johnson Controls, Inc. (JCI) approved by the Board on January 14, 2020, (agenda item EE-4), allows JCI to perform work related to the installation of improvement measures which shall reduce energy consumption, produce a cost savings and improve the quality of indoor air at certain facilities described in Agenda item EE-4.

The approval of Procurement’s May 19, 2020 RSBM agenda item E-10 prompts the approval of the energy lease arrangement (ELA) component of this transaction – which is this agenda item AA-3. Under the PDP, the District, along with JCI, identified approximately \$4.5 million in energy services equipment to be funded through an ELA.

The ELA has a similar structure to the District’s current master equipment lease with BAPCC for our current lease financings of technology, buses, vehicles, etc. (i.e., escrow agreement, master lease, lease schedules, etc.). However, the unique relationship between this financing and the energy cost savings guarantee by JCI dictates that this ELA should be separate from our current master lease for capital equipment. This also facilitates future financings of energy saving improvements in other District facilities, if approved by the Board.

The following terms were offered by BAPCC:

- Fixed Rate
- 12 years
- 1.547% interest rate
- Amount of lease: \$4,543,100

From the beginning of the dialogue for this project with BAPCC back in January 2020, they proposed and subsequently agreed to hold the pricing index for the District until the end of May 2020. The District made this request to hold the price index due to the delay of presenting this item to the Board caused by the COVID-19 pandemic and stay at home order in March 2020. The District’s long-standing partnership with BAPCC, with over ten (10) years of financial services, most certainly played a part in their willingness to hold the price index. This provided a greater favorable spread than today’s market would otherwise provide due to the liquidity crisis caused by COVID –19. In today’s market, banks have been quoting, on average, 50 basis points higher (in other words 0.5 percent higher) than the 1.547% offered by BAPCC.

Implementing this energy lease program, with its expected savings generated through energy saving equipment, coupled with JCI’s guarantee to fund amounts by which annual energy savings are less than annual lease payments under the ELA, makes this transaction favorable for the District.

The Superintendent recommends the Board approve this item.

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

RESOLUTION NO. 20-111

A RESOLUTION OF THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA, AUTHORIZING THE EXECUTION AND DELIVERY OF A MASTER EQUIPMENT LEASE/PURCHASE AGREEMENT WITH BANC OF AMERICA PUBLIC CAPITAL CORP AND RELATED AGREEMENTS WITH RESPECT TO THE ACQUISITION, PURCHASE, FINANCING AND LEASING OF CERTAIN ENERGY SERVICES EQUIPMENT IN AN AGGREGATE AMOUNT NOT EXCEEDING \$4,543,100; AUTHORIZING THE EXECUTION AND DELIVERY OF AN ESCROW AGREEMENT, A MASTER SERVICES CONTRACT WITH JOHNSON CONTROLS, INC. AND RELATED DOCUMENTS REQUIRED IN CONNECTION THEREWITH; AUTHORIZING INCIDENTAL ACTION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, The School Board of Broward County, Florida ("Lessee"), as the governing body of the School District of Broward County, Florida (the "District"), a political subdivision of the State of Florida, is authorized by the laws of the State of Florida and in particular Sections 1001.32(2) and 1001.42(2) to purchase, acquire and lease personal property for the benefit of Lessee and the District and to enter into contracts with respect thereto; and

WHEREAS, Lessee desires to purchase, acquire and lease certain energy services equipment in the aggregate amount of \$4,543,100 constituting personal property necessary for Lessee to perform essential governmental functions (the "Equipment"); and

WHEREAS, in order to acquire the Equipment, Lessee proposes to enter into a Master Services Contract for Guaranteed Energy Performance Contracting Services ("Energy Performance-Based Contract") with Johnson Controls, Inc. (the "Energy Performance Contractor"), the form of which is attached hereto as **Exhibit A**; and

WHEREAS, in order to finance the Equipment, Lessee proposes to enter into a Master Equipment Lease/Purchase Agreement (the "Master Lease") and certain agreements related thereto including the forms of Payment Schedule and Equipment Schedule, with Banc of America Public Capital Corp ("Lessor"), a Kansas corporation, the forms of which are attached hereto as **Exhibit B**; and

WHEREAS, the funds made available under the Master Lease will be deposited with Bank of America, N.A., a national banking association (the "Escrow Agent"), pursuant to an Escrow Agreement among Lessee, Lessor and the Escrow Agent (the "Escrow Agreement"), the form of which is also attached hereto as **Exhibit C**; and

WHEREAS, such funds deposited with the Escrow Agent will be applied to the

acquisition of the Equipment in accordance with the Escrow Agreement; and

WHEREAS, there has been presented by Lessor to Lessee a term sheet containing the financial terms upon which Lessor is willing to lease the Equipment to Lessee, a form of which is attached hereto as **Exhibit D**; and

WHEREAS, Lessee deems it for the benefit of Lessee and for the efficient and effective administration thereof to enter into the Energy Performance-Based Contract and the Master Lease including the forms of Equipment Schedule and Payment Schedule, and the Escrow Agreement for the acquisition, purchase, financing and leasing of the Equipment therein described on the terms and conditions provided therein and in Exhibit D;

NOW, THEREFORE, BE IT AND IT IS HEREBY RESOLVED by The School Board of Broward County, Florida as follows:

Section 1. Findings and Determinations. It is hereby found and determined that the terms of the Energy Performance-Based Contract, the Master Lease (including the form of Equipment Schedule and the form of Payment Schedule, both attached thereto), and the Escrow Agreement in the forms presented to the Lessee at this meeting, are in the best interests of the Lessee for the acquisition financing and leasing of the Equipment.

Section 2. Approval of Energy Performance-Based Contract. The form, terms and provisions of the Energy Performance-Based Contract as provided therein are hereby approved in substantially the form presented at this meeting as **Exhibit A**, with such insertions, omissions and changes as shall be approved by the Superintendent of Schools of Lessee, the execution of such document being conclusive evidence of such approval; and the Chair of Lessee is hereby authorized and directed to execute, and the Secretary of Lessee is hereby authorized and directed to attest and countersign, the Escrow Agreement and to deliver the Escrow Agreement to the Energy Performance Contractor, and the Secretary of Lessee is hereby authorized to affix the seal of Lessee to such document.

Section 3. Approval of Master Lease. Lessee hereby approves the execution of the Master Lease for an amount not to exceed \$4,543,100. The form, terms and provisions of the Master Lease as provided therein, including the forms of Payment Schedule and Equipment Schedule are hereby approved in substantially the form presented at this meeting as **Exhibit B**, with such insertions, omissions and changes as shall be approved by the Superintendent of Schools of Lessee, the execution of such document being conclusive evidence of such approval; and the Chair of Lessee is hereby authorized and directed to execute, and the Secretary of Lessee is hereby authorized and directed to attest and countersign, the Master Lease and to deliver the Master Lease to Lessor, and the Secretary of Lessee is hereby authorized to affix the seal of Lessee to such document.

Section 4. Approval of Escrow Agreement. The form, terms and provisions of the Escrow Agreement as provided therein are hereby approved in substantially the form presented at this meeting as **Exhibit C**, with such insertions, omissions and changes as shall be approved by the Superintendent of Schools of Lessee, the execution of such document being conclusive evidence of such approval; and the Chair of Lessee is hereby authorized and directed to execute, and the Secretary of Lessee is hereby authorized and directed to attest and countersign, the Escrow Agreement and to deliver the Escrow Agreement to the respective parties thereto, and the Secretary of Lessee is hereby authorized to affix the seal of Lessee to such document.

Section 5. Private Negotiated Financing. It is hereby found and declared that a private negotiated financing through the Master Lease is in the best interest of Lessee and is found to be necessary on the basis of the following reasons, as to which specific findings are hereby made:

Due to (i) the volatility of the market for “annual appropriation” securities such as the Master Lease, (ii) the unique program of the Energy Performance Contractor under which energy savings will offset the cost of the Equipment and (iii) the limited number of institutions engaged in the business of financing governmental equipment leases, the Lessee must be able to execute transactions at the most advantageous times, rather than at specific advertised dates, thereby permitting Lessee to obtain the best possible price and other terms for the Master Lease.

Section 6. Other Actions Authorized. The officers and employees of Lessee including, without limitation, the Chair, Vice Chair, Secretary, Superintendent, the Chief Financial Officer, the Treasurer and the Office of the General Counsel are hereby authorized to take all action necessary or reasonably required by the parties to the Energy Performance-Based Contract, the Master Lease and the Escrow Agreement to carry out, give effect to and consummate the transactions contemplated thereby (including the execution and delivery of one or more Schedules of Property, Acceptance Certificates, Incumbency Certificates, Payment Schedules, Disbursement Requests and any tax certificates and agreements, as contemplated in the Master Lease) and to take all action necessary in conformity therewith, including, without limitation, the execution and delivery of any closing and other documents required to be delivered in connection with such documents.

Section 7. No General Liability. Nothing contained in this Resolution, the Energy Performance-Based Contract, the Master Lease, the Escrow Agreement nor any other instrument shall be construed with respect to Lessee as incurring a pecuniary liability or charge upon the general credit of Lessee or against its taxing power, nor shall the breach of any agreement contained in this Resolution, the Energy Performance-Based Contract, the Master Lease, the Escrow Agreement or any other instrument or document executed in connection therewith impose any pecuniary liability upon Lessee or any charge upon its general credit or against its taxing power, except to the extent that the rental payments payable under the Master Lease are special limited obligations of Lessee, subject to annual appropriation as provided in the Master Lease.

Section 8. Appointment of Authorized Lessee Representatives. The Superintendent, the Chief Financial Officer and the Treasurer of Lessee are each hereby designated to act as authorized representatives of Lessee for purposes of the Master Lease until such time as Lessee shall designate any other or different authorized representative for purposes

of the Master Lease.

Section 9. Severability. If any section, paragraph, clause or provision of this Resolution shall for any reason be held to be invalid or unenforceable by any court of competent jurisdiction, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Resolution.

Section 10. Repealer. All resolutions or parts thereof, inconsistent herewith, are hereby repealed to the extent of such inconsistency.

Section 11. Open Meetings. It is hereby found and determined that all formal actions of Lessee concerning and relating to the adoption of this Resolution and the consummation of the transactions contemplated by this Resolution, and all deliberations of Lessee that resulted in such formal action were adopted in compliance with all legal requirements, including, without limitation, the provisions of Chapter 286, Florida Statutes as modified by the Governor's Executive Orders Nos. 20-52 dated March 9, 2020 and 20-69 dated March 20, 2020..

[Remainder of page intentionally left blank]

Section 12. Effective Date. This Resolution shall be effective immediately upon its approval and adoption.

Adopted this 19th day of May, 2020.



Attest:

A handwritten signature in black ink, reading "Robert W. Runcie", is written over a horizontal line.

Robert W. Runcie
Secretary, The School Board of Broward
County, Florida

A handwritten signature in black ink, reading "Donna P. Korn", is written over a horizontal line.

Donna P. Korn
Chair, The School Board of Broward
County, Florida