

**THE INTERNATIONAL SCHOOL AT MESA DEL SOL
GOVERNING COUNCIL**

Resolution No.2020-06-01

Resolution Re: Purchase and Sale Agreement and Lease Purchase Arrangement Approval Pursuant to NMSA 1978, §22-26A-6.

WHEREAS, The International School at Mesa del Sol's Governing Council ("Council"), the governing body of The International School at Mesa del Sol, a public charter school ("School") authorized by the Albuquerque Public School District Board of Education, held a regular public meeting via the virtual platform Zoom Video Conferencing on June 8, 2020 at 5:00 p.m.; notice of the meeting was provided by law;

WHEREAS, the Council has determined that it is necessary and in the School's best interest to acquire from RMMDS, LLC ("Owner"), a facility and approximately five (5) acres of land located in the Mesa del Sol Community Development in Albuquerque, New Mexico ("School Site"). The real property and facility to be acquired are described in Exhibit A of the Purchase and Sale Agreement and the Lease Purchase Arrangement, a financial arrangement as defined by the New Mexico Public School Lease Purchase Act ("Act"), NMSA 1978, §§22-26A-1, *et seq.*

WHEREAS, the Council has determined that it in the School's best interest to accept the Owner's proposal to acquire the School Site by entering the proposed Purchase and Sale Agreement, which contemplates acquisition by use of a Public Education Department ("Department") approved Lease Purchase Arrangement.

WHEREAS, the Owner is a New Mexico limited liability company organized and existing under NMSA 1978, 53-19-1, *et seq.*, the Limited Liability Company Act;

WHEREAS, the Council understands that the Owner will obtain financing ("Loan") from U.S. Eagle Federal Credit Union to acquire the land and to make the improvements as contemplated in the Purchase and Sale Agreement and the Lease Purchase Arrangement and for which the Owner will be solely liable;

WHEREAS, the Council, in connection with the Owner's acquisition of land and construction of the improvements, has not entered into a pledge and covenant agreement whereby it is required to establish and maintain a depository account with a bank or other financial institution, into which account all education funding received by the School from the Public Education Department, including State Equalization Guarantee Distribution funding, State Lease Reimbursement Program payments, and other special funds and federal pass-through funding constituting revenue, whether adjusted or otherwise, are to be deposited in accordance with an account control agreement;

WHEREAS, the Council will not enter into a pledge and covenant agreement as it relates to the Loan, wherein it must agree to grant a security interest and assign to a third party bank or other financial institution for the benefit of educational facility revenue bonds holders, any of the charter school's revenues or other assets, or the charter school's right, title, and interest in and to any agreements with the State of New Mexico for such revenues, or both;

WHEREAS, the Council has made a determination that as of June 8, 2020, the maximum purchase price for the School Site, \$8,000,000 (Eight Million Dollars and 00/100) at an initial and maximum interest rate of eight percent (8%) subject to reduction if the interest charged to Owner on its Loan at closing is less than six percent (6%), is fair and reasonable based on the School's current and projected educational program needs. The Council has ensured that the interest rate does not exceed the maximum interest rate allowed pursuant to the Public Securities Act, NMSA 1978, §6-14-1 through 6-14-3;

WHEREAS, the Council has reviewed a summary of the terms of the proposed Purchase and Sale Agreement and Lease Purchase Arrangement and determined that the terms and conditions of the agreements are in the best interest of the School and are acceptable to the Council. The Council understands that it shall not execute the Lease Purchase Arrangement unless or until it has been approved by the Department;

WHEREAS, the School is currently located 2660 Eastman Crossing SE, Albuquerque, New Mexico 87106 in portable buildings that do not adequately address the School's current facility needs and the new School Site is intended as a permanent, long-term facility solution for the School. Acquisition of the School Site as its long-term facility is in the School's best interest;

WHEREAS, the Council will, prior to executing the Lease Purchase Arrangement, submit it to the Department for approval, pursuant to the requirements of the Department, the terms of the Act, and the Charter Schools Act, NMSA 1978, §§22-8B-1, *et seq.*; and

WHEREAS, the Council has reviewed the Sources of Funds that will be used to make the required payments pursuant to the Lease Purchase Arrangement, which sources comply with NMSA 1978, §22-26A-7 and the Council is satisfied that the School has eligible funding to enter into the Lease Purchase Arrangement.

NOW, THEREFORE, be it resolved by The International School at Mesa del Sol's Governing Council that:

- (1) It is necessary and, in the School's, best interest to acquire the School Site from Owner through a lease purchase arrangement as defined by NMSA 1978, §22-26A-3(A) and to enter into the Purchase and Sale Agreement to secure the terms and conditions of the Lease Purchase Arrangement pending the Public Education Department's review and approval process;
- (2) The costs and expenses of the School Site to be acquired, \$8,000,000 (Eight Million Dollars and 00/100), and the maximum interest rate of eight percent (8%) subject to reduction if the interest charged on the Loan at closing is less than six percent (6%) (which does not exceed the maximum interest rate allowed pursuant to the Public Securities Act, NMSA 1978, §6-14-1 through 6-14-3), are reasonable;
- (3) The terms of the proposed Lease Purchase Arrangement are reasonable, acceptable, and in the best interest of the School;
- (4) The source of funds to make the payments under the proposed Lease Purchase Arrangement have been identified from available and allowable funds;
- (5) The Council will not be liable for the Loan incurred by Owner for purposes of acquiring the School Site;
- (6) The Council will not pledge its revenue, nor commit the School's assets as security for purposes of repaying the Loan, nor will it establish or maintain a depository account into which

the School's revenues from any source are deposited to be controlled by a trustee or any third party as it relates to repayment of the Owner's Loan.

(7) The Lease Purchase Arrangement, along with all required documentation, shall be forwarded to the Department for consideration and approval prior to its execution;

(8) The Council authorizes the School's Head of School, with the support of the Council President, to respond to any additional requests for documents or information from the Department, to make all revisions required by the Department or as advised by School's legal counsel that do not change the material terms of agreement, and to take such other necessary steps to finalize the draft Lease Purchase Arrangement in consultation with the School's legal counsel;

(9) The President of the Council shall have the authority to execute the Lease Purchase Arrangement if the required approvals are obtained from the Department and the Public School Facilities Authority; and

(10) The President of the Council shall have the authority to execute the Purchase and Sale Agreement and to work with the Head of School and legal counsel to ensure all due diligence under the agreement is complete and satisfactory before the Lease Purchase Arrangement is executed.

The motion was duly made, seconded, and 5 voted in favor, 0 against and 0 abstained; the motion carried.

THE INTERNATIONAL SCHOOL AT MESA DEL SOL'S GOVERNING COUNCIL


President (Signature)

6/9/2020
Date

Anne Lacy
Printed Name

By my signature below I certify that the foregoing is a true and correct statement of the Resolution that was duly adopted by The International School at Mesa del Sol's Governing Council, at its June 8, 2020 special meeting held in accordance with State laws and bylaws of governing body.


Secretary (Signature)

6-9-2020
Date

Kim Eichhorst
Printed Name

