REPORT OF THE EXECUTIVE OFFICER
State Allocation Board Meeting, November 25, 2014

CHARTER SCHOOL FACILITIES PROGRAM
UNFUNDED PRELIMINARY APPORTIONMENTS

PURPOSE OF REPORT

To provide unfunded Preliminary Charter School Apportionments (PCSA) for the Charter School Facilities Program (CSFP) in the amount of $89.9 million.

DESCRIPTION

This item awards the successful CSFP applicants unfunded PCSA and presents the complete funding matrix for the application round. This matrix will remain valid for eight months after this date, in the event that bond authority should return to the CSFP and additional PCSA can be awarded. Should bond authority return to the CSFP during this period, the projects will be funded in the order specified on Attachment A.

AUTHORITY

See Attachment B.

BACKGROUND

The CSFP provides qualified applicants with a preliminary apportionment for the construction of new charter schools or the rehabilitation of existing district owned facilities that are at least 15 years old. At its November 2013 meeting, the State Allocation Board (Board) approved a new CSFP filing round, which occurred from April 1, 2014 through May 30, 2014. At the March 2014 meeting, the Board approved the following:

- The reservation of $7.6 million in CSFP bond authority to augment 11 previously apportioned projects that did not receive a six percent increase to their per pupil grant,
- The reservation of $5.3 million in CSFP bond authority for Office of Public School Construction (OPSC) administrative costs, and
- The use of all remaining CSFP authority, including any additional authority returning from Propositions 1D, 55 and 47, for the new round.

Since that time, authority has returned to the CSFP. The total amount available to provide unfunded PCSA is $89.9 million.

The Board also took action to leave the list of applications not receiving a PCSA open for a period of eight months. This is consistent with past rounds. Any funds made available within the eight months would be available to the next CSFP applicant in the order specified in Attachment A.

STAFF ANALYSIS/STATEMENTS

The OPSC received 72 applications by the final filing deadline. After the review process was completed, 11 applications were not eligible for funding due to not meeting program requirements, leaving 61 applications eligible for consideration.

The estimated total value of the eligible applications received is $653.9 million. This exceeds the $89.9 million available for the current filing round.

(Continued on Page Two)

STAFF ANALYSIS/STATEMENTS (cont.)

Statute requires that should requests exceed authority in a given round, to ensure a variety of project types are funded, the Board shall apportion applications based on both preference points and funding category. Preference points for applicants are calculated based on:

- percentage of overcrowding for the school district where the project will be located
- percentage of low income pupils in the school district where the project will be located, any public school within the Charter School General Location, or in the existing charter school
- whether or not the charter school is a non-profit entity
- whether or not the charter school is rehabilitating district owned existing facilities.

Once the preference points have been established, the application with the highest number of points will be funded in each of the following categories:

- Category 1 – Geographic Region 1, 2, 3, and 4, then
- Category 2 – Urban, Rural, and Suburban areas, then
- Category 3 – Large, Medium, and Small school size, then
- Category 4 – K-6, 7-8, and 9-12 grade levels

On Attachment A, the eligible applications are shown in the funding order required by statute. The projects shaded in green are those that are recommended for approval. OPSC can fully process four projects for the amount that the Charter applicant is requesting. However, there is insufficient bond authority to fund the entire eligible PCSA for the El Sol Santa Ana Science and Arts Academy (Charter School). The Charter School agreed to receive a partial PCSA at this time in the amount of $17,475,820.

The table below presents the first five projects on Attachment A that will receive the available CSFP funding. Funding items are included for these applications as well. All applications on Attachment A were thoroughly reviewed by the OPSC. The applicants receiving a PCSA have been determined financially sound by CSFA.

Charter School	Application Number	Total PCSA Amount
Natomas Charter (New Construction)	54/75283-00-003	$4,078,926
Natomas Charter (Rehabilitation)	54/75283-00-004	$3,333,298
Lazear Charter Academy	54/61259-00-004	$12,221,618
Da Vinci Design	54/76869-00-001	$52,764,386
El Sol Santa Ana Science and Arts Academy	54/66670-00-004	$17,475,820
	Total	**$89,874,048**

After the Board has awarded the unfunded PCSA included in Attachment A, the remaining applications on the list will remain active for a period of eight months. If any funds return to the CSFP, the bond authority will first be used to fund the remaining PCSA ($8,124,346) for the El Sol Santa Ana Science and Arts Academy. If at the end of eight months, sufficient additional bond authority has not returned to fund the remaining amount of the PCSA, the amount of authority reserved will be considered full and final PCSA from the State.

(Continued on Page Three)

STAFF ANALYSIS/STATEMENTS (cont.)

Should any bond authority remain at the end of eight months, it will then be used to fund the next available project on the list, continuing down the list until the funds are exhausted. All applications remaining will still need to meet all CSFP requirements at the time they become funded, including but not limited to, receiving approval of financial soundness by the California School Finance Authority.

The successful applicants will have four years (with a possible one-year extension) to obtain all of the necessary plan approvals and convert the project to a Final Charter School Apportionment. Any PCSA not converted within the specified time period will be rescinded and the authority reserved for the project will be returned to the CSFP.

After the eight month period has expired, any projects that have not been given an award will be returned. Staff will report back to the Board to close out the funding round. If there are program funds available after the eight months, they would be available to projects received in prior filing rounds that request an increase for their Final Charter School Apportionment.

RECOMMENDATIONS

1. Approve unfunded PCSA for the projects included in Attachment A in the amount of $89.9 million.

2. Place site and/or design advance fund release amounts for each PCSA on the Unfunded List (Lack of AB 55 Loans).

3. Require the applicants receiving a PCSA convert the project to a Final Charter School Apportionment within 4 years or as provided in SFP Regulation Section 1859.166.1.

4. Request Staff to report back to the Board in eight months to close out the funding round.

This Item was approved by the State Allocation Board on November 25, 2014.

ATTACHMENT A

State Allocation Board Meeting, November 25, 2014
Charter School Facilities Program Unfunded Preliminary Apportionments

					CATEGORY 1		CATEGORY 2		CATEGORY 3		CATEGORY 4				
Application Number	District	Charter School	50-09 Received Date	Preference Points	Region	Funding Order	Urban, Rural, Suburban	Funding Order	Large, Medium, Small	Funding Order	Grade Level	Funding Order	Total Project Cost	Total State Share (including Lease Payment Amt)	Cumulative Value of Unfunded Preliminary Apportionments
54/75283-00-003	NATOMAS UNIFIED	NATOMAS CHARTER	4/10/2014	141.4	1	1	Rural	~	Large	~	9-12	~	4,078,926	4,078,926	4,078,926
54/75283-00-004	NATOMAS UNIFIED	NATOMAS CHARTER*	4/10/2014	141.4	1	1	Rural	~	Large	~	9-12	~	3,333,298	$3,333,298	$7,412,224
54/61259-00-004	OAKLAND UNIFIED	LAZEAR CHARTER ACADEMY	5/30/2014	120	2	2	Urban	~	Large	~	7-8	~	12,221,618	$12,221,618	$19,633,842
54/76869-00-001	WISEBURN UNIFIED	DA VINCI DESIGN	4/1/2014	119	3	3	Suburban	~	Large	~	9-12	~	105,528,772	$52,764,386	$72,398,228
54/66670-00-004	SANTA ANA UNIFIED	EL SOL SANTA ANA SCIENCE AND ARTS ACADEMY	4/4/2014	79.5	4	4	Urban	~	Large	~	7-8	~	25,600,166	$25,600,166**	$97,998,394
54/70920-00-003	SANTA ROSA HIGH	ROSELAND ACCELERATED MIDDLE	4/1/2014	118.5	1	~	Urban	5	Large	~	7-8	~	709,172	$709,172	$98,707,566
54/70920-00-004	SANTA ROSA HIGH	ROSELAND ACCELERATED MIDDLE	4/1/2014	118.5	1	~	Urban	5	Large	~	7-8	~	10,229,850	$10,229,850	$108,937,416
54/61424-00-004	CHICO UNIFIED	NORD COUNTRY SCHOOL	4/1/2014	116	1	~	Rural	6	Small	~	K-6	~	2,726,940	$2,726,940	$111,664,356
54/61424-00-005	CHICO UNIFIED	NORD COUNTRY SCHOOL	4/1/2014	116	1	~	Rural	6	Small	~	K-6	~	1,772,532	$1,772,532	$113,436,888
54/75499-00-003	TRACY UNIFIED	MILLENNIUM CHARTER	4/30/2014	116	1	~	Suburban	7	Large	~	9-12	~	4,935,992	$2,467,996	$115,904,884
54/75499-00-004	TRACY UNIFIED	MILLENNIUM CHARTER	4/30/2014	116	1	~	Suburban	7	Large	~	9-12	~	3,894,434	$1,947,217	$117,852,101
54/69369-00-002	ALUM ROCK UNION ELEMENTARY	KIPP HEARTWOOD ACADEMY	5/30/2014	118.5	2	~	Urban	~	Large	8	7-8	~	8,807,194	$8,807,194	$126,659,295
54/61259-13-002	OAKLAND UNIFIED	ASPIRE ERES ACADEMY	5/28/2014	118.5	2	~	Urban	~	Medium	9	7-8	~	30,360,612	$30,360,612	$157,019,907
54-69369-00-003	ALUM ROCK UNION ELEMENTARY	KIPP PRIZE PREPARATORY ACADEMY	5/30/2014	118.5	2	~	Urban	~	Small	10	7-8	~	4,073,466	$4,073,466	$161,093,373
54-69369-00-004	ALUM ROCK UNION ELEMENTARY	KIPP PRIZE PREPARATORY ACADEMY	5/30/2014	118.5	2	~	Urban	~	Small	10	7-8	~	11,896,456	$11,896,456	$172,989,829
54/75499-00-002	TRACY UNIFIED	PRIMARY CHARTER	4/30/2014	116	1	~	Suburban	~	Medium	~	K-6	11	2,879,494	$1,439,747	$174,429,576
54/75499-00-001	TRACY UNIFIED	DISCOVERY CHARTER	4/30/2014	116	1	~	Suburban	~	Large	~	7-8	12	5,823,384	$2,911,692	$177,341,268
54/61259-00-002	OAKLAND UNIFIED	OAKLAND MILITARY INSTITUTE	5/30/2014	117.5	2	~	Urban	~	Large	~	9-12	13	15,368,644	$7,684,322	$185,025,590
54/61259-79-003	OAKLAND UNIFIED	OAKLAND MILITARY INSTITUTE	5/30/2014	117.5	2	~	Urban	~	Large	~	9-12	13	13,409,160	$6,704,580	$191,730,170
54/67447-00-003	SAN JUAN UNIFED	CALIFORNIA MONTESSORI PROJECT - ORANGEVALE	5/30/2014	116	1	14	Suburban	~	Medium	~	7-8	~	368,770	$368,770	$192,098,940
54/67447-00-004	SAN JUAN UNIFED	CALIFORNIA MONTESSORI PROJECT - ORANGEVALE	5/30/2014	116	1	14	Suburban	~	Medium	~	7-8	~	4,298,514	$4,298,514	$196,397,454
54/69021-00-001	SAN CARLOS ELEMENTARY	SAN CARLOS LEARNING CENTER	5/28/2014	105	2	15	Suburban	~	Medium	~	7-8	~	18,000,000	$9,000,000	$205,397,454
54/64733-00-090	LOS ANGELES UNIFIED	VAUGHN NEXT CENTURY LEARNING CENTER (K-6)	4/9/2014	80	3	16	Urban	~	Large	~	K-6	~	11,045,214	$5,522,607	$210,920,061
54/10330-99-001	RIVERSIDE COUNTY OFFICE OF EDUCATION	RIVERSIDE COUNTY EDUCATION ACADEMY	5/30/2014	78	4	17	Suburban	~	Small	~	9-12	~	8,328,848	$8,328,848	$219,248,909
54/64733-00-091	LOS ANGELES UNIFIED	VAUGHN NEXT CENTURY LEARNING CENTER (9-12)	4/9/2014	80	3	~	Urban	18	Large	~	9-12	~	13,178,756	$6,589,378	$225,838,287
54/75283-00-005	NATOMAS UNIFIED	STAR ACADEMY	5/16/2014	107	1	~	Rural	19	Medium	~	K-6	~	17,329,940	$17,329,940	$243,168,227
54/70573-00-003	VACAVILLE UNIFIED	KAIROS PUBLIC SCHOOL VACAVILLE ACADEMY	5/30/2014	112	1	~	Suburban	20	Large	~	7-8	~	2,448,160	$1,948,160	$245,116,387
54/67447-00-002	SAN JUAN UNIFED	GOLDEN VALLEY CHARTER	5/30/2014	112	1	~	Suburban	~	Large	21	7-8	~	9,329,232	$9,329,232	$254,445,619
54/69484-00-002	GILROY UNIFIED	GILROY PREP	5/30/2014	84	2	~	Suburban	~	Medium	22	K-6	~	3,634,050	$3,634,050	$258,079,669
54/61424-00-002	CHICO UNIFIED	FOREST RANCH CHARTER	4/1/2014	100	1	~	Rural	~	Small	23	7-8	~	3,994,154	$1,997,077	$260,076,746
54/61424-00-003	CHICO UNIFIED	FOREST RANCH CHARTER	4/1/2014	100	1	~	Rural	~	Small	23	7-8	~	769,888	$384,944	$260,461,690
54/68676-04-001	STOCKTON UNIFIED	ASPIRE APEX ACADEMY	5/28/2014	78.5	1	~	Urban	~	Medium	~	K-6	24	13,139,628	$13,139,628	$273,601,318
54/62802-00-001	FORTUNA ELEMENTARY	REDWOOD PREPARATORY CHARTER	4/7/2014	92	1	~	Suburban	~	Small	~	7-8	25	5,714,852	$5,714,852	$279,316,170
54/75044-00-003	HESPERIA UNIFIED	SUMMIT LEADERSHIP ACADEMY - HIGH DESERT	5/30/2014	80	3	~	Rural	~	Medium	~	9-12	26	8,265,136	$8,265,136	$287,581,306
54/70912-00-004	SANTA ROSA ELEMENTARY	CESAR CHAVEZ LANGUAGE ACADEMY	5/30/2014	78.5	1	27	Urban	~	Small	~	K-6	~	1,179,410	$589,705	$288,171,011
54/69799-00-003	PAJARO VALLEY UNIFIED	CEIBA COLLEGE PREPARATORY ACADEMY	5/30/2014	78.5	2	28	Rural	~	Large	~	9-12	~	8,423,884	$8,423,884	$296,594,895
54/64733-00-092	LOS ANGELES UNIFIED	VAUGHN NEXT CENTURY LEARNING CENTER (7-8)	4/9/2014	80	3	29	Urban	~	Large	~	7-8	~	16,230,186	$8,115,093	$304,709,988
54/67876-00-003	SAN BERNARDINO CITY UNIFIED	CASA RAMONA ACADEMY	5/29/2014	80	3	~	Urban	30	Large	~	7-8	~	9,196,622	$9,196,622	$313,906,610
54/70847-00-004	OLD ADOBE UNION ELEMENTARY	OLD ADOBE ELEMENTARY CHARTER	5/30/2014	68	1	~	Rural	31	Medium	~	K-6	~	5,022,610	$2,511,305	$316,417,915
54/76869-00-002	WISEBURN UNIFIED	DA VINCI SCIENCE	4/1/2014	79	3	~	Suburban	32	Large	~	9-12	~	31,774,108	$15,887,054	$332,304,969
54/69799-00-001	PAJARO VALLEY UNIFIED	ALIANZA CHARTER	5/21/2014	77.5	2	~	Suburban	~	Large	33	7-8	~	8,106,758	$8,106,758	$340,411,727
54/64733-00-094	LOS ANGELES UNIFIED	ASPIRE HUNTINGTON PARK CHARTER	5/28/2014	78.5	3	~	Suburban	~	Medium	34	K-6	~	21,036,454	$21,036,454	$361,448,181
54/68593-00-001	MANTECA UNIFIED	MANTECA UNIFIED VOCATIONAL ACADEMY	5/30/2014	40	1	~	Suburban	~	Small	35	9-12	~	10,772,746	$10,772,746	$372,220,927
54/64733-00-096	LOS ANGELES UNIFIED	ICEF VISTA ELEMENTARY CHARTER ACADEMY	5/30/2014	77.5	3	~	Urban	~	Medium	~	K-6	36	27,379,498	$27,379,498	$399,600,425
54/69799-00-002	PAJARO VALLEY UNIFIED	WATSONVILLE SCHOOL OF THE ARTS	5/21/2014	77.5	2	~	Suburban	~	Medium	~	7-8	37	4,887,110	$4,887,110	$404,487,535
54/64733-00-093	LOS ANGELES UNIFIED	BRIGHT STAR SECONDARY CHARTER ACADEMY	5/27/2014	77.5	3	~	Urban	~	Large	~	9-12	38	54,023,596	$54,023,596	$458,511,131
54/72694-00-002	WASHINGTON UNIFIED	THE LIGHTHOUSE CHARTER	5/29/2014	77.5	1	39	Suburban	~	Large	~	7-8	~	17,745,910	$17,745,910	$476,257,041
54/61259-79-002	OAKLAND UNIFIED	YU MING CHARTER	5/28/2014	77.5	2	40	Urban	~	Medium	~	7-8	~	20,989,698	$20,989,698	$497,246,739
54/64733-00-097	LOS ANGELES UNIFIED	ICEF VISTA MIDDLE CHARTER ACADEMY	5/30/2014	77.5	3	41	Urban	~	Medium	~	7-8	~	30,057,454	$30,057,454	$527,304,193
54/61259-50-001	OAKLAND UNIFIED	ASPIRE BERKLEY MAYNARD ACADEMY	5/28/2014	76	2	~	Urban	42	Large	~	7-8	~	28,487,258	$28,487,258	$555,791,451
54/66092-00-001	MONTEREY PENINSULA UNIFIED	MONTEREY BAY CHARTER	4/15/2014	76	2	~	Suburban	43	Medium	~	7-8	~	14,556,226	$14,556,226	$570,347,677
54/66332-00-003	GRASS VALLEY ELEMENTARY	GRASS VALLEY CHARTER	5/29/2014	76	1	~	Suburban	~	Large	44	7-8	~	5,136,322	$5,136,322	$575,483,999
54/66332-00-004	GRASS VALLEY ELEMENTARY	GRASS VALLEY CHARTER	5/29/2014	76	1	~	Suburban	~	Large	44	7-8	~	25,740,782	$25,740,782	$601,224,781
54/70912-00-003	SANTA ROSA ELEMENTARY	SANTA ROSA FRENCH-AMERICAN CHARTER	5/30/2014	74.5	1	~	Urban	~	Medium	45	K-6	~	6,373,746	$3,186,873	$604,411,654
54/70896-00-001	RINCON VALLEY UNION ELEMENTARY	SANTA ROSA ACCELERATED CHARTER	5/30/2014	20	1	~	Urban	~	Small	46	K-6	~	2,864,374	$1,432,187	$605,843,841
54/70847-00-001	OLD ADOBE UNION ELEMENTARY	LOMA VISTA IMMERSION ACADEMY	5/30/2014	68	1	~	Urban	~	Medium	~	K-6	47	9,172,294	$4,586,147	$610,429,988
54/66761-00-001	ACKERMAN ELEMENTARY	BOWMAN CHARTER	5/30/2014	36	1	~	Suburban	~	Large	~	7-8	48	2,170,856	$2,170,856	$612,600,844
54/69310-00-001	SANTA MARIA JOINT UNION HIGH	ORCUTT ACADEMY CHARTER	5/15/2014	37	3	~	Suburban	~	Large	~	9-12	49	30,347,138	$30,347,138	$642,947,982
54/70847-00-002	OLD ADOBE UNION ELEMENTARY	MIWOK VALLEY LANGUAGE ACADEMY CHARTER	5/30/2014	68	1	50	Urban	~	Large	~	K-6	~	10,053,204	$5,026,602	$647,974,584
54/70847-00-003	OLD ADOBE UNION ELEMENTARY	SONOMA MOUNTAIN ELEMENTARY	5/30/2014	68	1	~	Urban	51	Large	~	K-6	~	10,238,924	$5,119,462	$653,094,046
54/70953-00-001	SONOMA VALLEY UNIFIED	SONOMA CHARTER	5/30/2014	32	1	~	Suburban	52	Medium	~	K-6	~	1,689,656	$844,828	$653,938,874

* There are several entries with the same project name and two application numbers. These are combination new construction and rehabilitation projects. Because the grants for each are calculated differently, they must be processed as separate applications. However, for purposes of funding, they are considered one project.

** As there is only $17,475,820 remaining to fund this project, the Charter School has agreed to accept a reduced unfunded Preliminary Charter School Apportionment. Should any funding return to the Charter School Facilities Program within eight months of this approval,

ATTACHMENT A

State Allocation Board Meeting, November 25, 2014
Charter School Facilities Program Unfunded Preliminary Apportionments

					CATEGORY 1		CATEGORY 2		CATEGORY 3		CATEGORY 4				
Application Number	District	Charter School	50-09 Received Date	Preference Points	Region	Funding Order	Urban, Rural, Suburban	Funding Order	Large, Medium, Small	Funding Order	Grade Level	Funding Order	Total Project Cost	Total State Share (including Lease Payment Amt)	Cumulative Value of Unfunded Preliminary Apportionments

that authority will be used to first augment this award up to the full total project cost of $25,600,166.

ATTACHMENT B

AUTHORITY

Education Code (EC) 17078.52. (a) There is hereby established the Charter Schools Facilities Program to provide funding to qualifying entities for the purpose of establishing school facilities for charter school pupils.
(b) (1) The 2002 Charter School Facilities Account is hereby established within the 2002 State School Facilities Fund established pursuant to subdivision (b) of Section 17070.40. The proceeds of bonds, as set forth in subparagraph (A) of paragraph (1) of subdivision (a) of Section 100620, shall be deposited into the 2002 Charter School Facilities Account for the purposes of this article. Notwithstanding Section 13340 of the Government Code, funds deposited into the account are hereby continuously appropriated for the purposes of this article.

(2) The 2004 Charter School Facilities Account is hereby established within the 2004 State School Facilities Fund established pursuant to subdivision (c) of Section 17070.40. The proceeds of bonds, as set forth in subparagraph (A) of paragraph (1) of subdivision (a) of Section 100820, if approved by the voters, shall be deposited into the 2004 Charter School Facilities Account for the purposes of this article. Notwithstanding Section 13340 of the Government Code, funds deposited into the account are hereby continuously appropriated for the purposes of this article.

(3) The 2006 Charter School Facilities Account is hereby established within the 2006 State School Facilities Fund established pursuant to subdivision (d) of Section 17070.40. The proceeds of bonds, as set forth in paragraph (2) of subdivision (a) of Section 101012, if approved by the voters, shall be deposited into the 2006 Charter School Facilities Account for the purposes of this article. Notwithstanding Section 13340 of the Government Code, funds deposited into the account are hereby continuously appropriated for the purposes of this article.

(c) As used in this article, the following terms have the following meanings:

(1) "Authority" means the California School Finance Authority established pursuant to Section 17172.

(2) "Account" means the pertinent account established under subdivision (b).

(3) "Preliminary apportionment" means an apportionment made for eligible applicants under this article in advance of full compliance with all of the application requirements otherwise required for an apportionment pursuant to this chapter. The process for making preliminary apportionments under this article shall be substantially identical to the process established for critically overcrowded schools pursuant to Sections 17078.22 to 17078.30, inclusive.

(4) "Financially sound" means a charter school that has demonstrated, over a period of time determined by the authority, but not less than 24 months immediately preceding the submission of the application, that it has operated as a financially capable concern in California, as measured by criteria established by the authority. A charter school that cannot demonstrate that it has been a financially capable concern for at least 24 months immediately preceding the submission of the application, due solely to not having operated as a charter school for at least 24 months, may meet this 24-month requirement if the charter school is managed by staff who have at least 24 months of documented experience, as measured by criteria established by the authority and the charter school has an educational plan, financial resources, facilities expertise, management expertise, and has been a financially capable concern for at least 24 months, as established by the authority.

(d) The board shall, from time to time, transfer funds within the account to the California School Finance Authority Fund for the purposes of this article pursuant to the request of the authority as set forth in this article.

EC 17078.53. (a) The initial preliminary applications for projects to be funded pursuant to this article shall be submitted to the board by March 31, 2003. Thereafter, the board may establish subsequent application periods as needed.

(b) Preliminary applications may be submitted by eligible applicants as set forth in this article by either of the following:

(1) A school district on behalf of a charter school that is physically located within the geographical jurisdiction of the school district.

(2) A charter school on its own behalf if the charter school has notified both the superintendent and the governing board of the school district in which it is physically located of its intent to do so in writing at least 30 days prior to submission of the preliminary application.

(c) A preliminary application shall demonstrate either of the following:

(1) That a charter petition for the school for which the application is submitted has been granted by the appropriate chartering entity prior to the application deadline determined by the board.

(2) That an already existing charter has been amended to include the school for which the application is submitted and approved by the appropriate chartering entity prior to the deadline determined by the board.

(d) A preliminary application shall include either of the following:

(1) For a preliminary application submitted pursuant to paragraph (1) of subdivision (b), the number of unhoused pupils determined pursuant to Article 3 (commencing with Section 17071.75) that will be housed by the project for which the preliminary application has been submitted.

(2) For a preliminary application submitted pursuant to paragraph (2) of subdivision (b), a certification from the governing board of the district within which the charter school is physically located of the number of unhoused pupils for that district determined pursuant to Article 3 (commencing with Section 17071.75) that will be housed by the project for which the preliminary application has been submitted.

(e) Prior to submitting a preliminary application, the school district and charter school shall consider existing school district facilities in accordance with Section 47614.

(f) The board, after consideration of the recommendations of the authority regarding whether a charter school is financially sound, shall approve the preliminary application and shall make the preliminary apportionment for funding pursuant to this article.

(g) (1) The board shall establish a process to ensure that pupil attendance in a charter school that is physically located within the geographical jurisdiction of a school district is counted as per-pupil eligibility for that school district and to ensure that the same per-pupil attendance is not so counted for any other school district or other applicant under this chapter.

(2) (A) Except as provided pursuant to subparagraph (B) and notwithstanding subdivision (b) of Section 17071.75, the number of pupils for which facilities are provided under this article shall not be included in the sum determined under subdivision (b) of Section 17071.75.

(B) The number of unhoused pupils determined pursuant to subdivision (d) that will be housed by the project for which a preliminary application has been submitted shall be included in the sum determined under subdivision (b) of Section 17071.75.

(h) The board shall establish a process to be used for release of funds for approved projects pursuant to this article. Notwithstanding Section 17072.30, the board may provide for the release of planning and site acquisition funds prior to the approval of the project by the Department of General Services pursuant to the Field Act, as defined in Section 17281.

EC 17078.54. (a) An eligible project under this article shall include funding, as permitted by this chapter, for new construction or rehabilitation of a school facility for charter school pupils, as set forth in this article. A project may include, but is not limited to, the cost of retrofitting an existing building for charter school purposes, purchasing a building, or retrofitting a building that has been purchased by the charter school, if those costs have not been previously funded under this chapter, but may not exceed the amounts set forth in subdivision (b). Existing school buildings made available by a school district that will be rehabilitated for the purposes of this article are not subject to Article 6 (commencing with Section 17073.10). An allocation of funds shall not be made for a school facility that is less than 15 years old.

(b) The maximum amount of the funding pursuant to this article shall be determined by calculating the charter school's per-pupil grant amount plus other allowable costs as set forth in this chapter. Funding shall be provided by the authority for new facility construction or rehabilitation as set forth in Section 17078.58.

(c) To be funded under this article, a project shall comply with all of the following:

(1) It shall meet all the requirements regarding public school construction, plan approvals, toxic substance review, site selection, and site approval, as would any noncharter school project of a school district under this chapter, including, but not limited to, regulations adopted by the State Architect pursuant to Section 17280.5 relating to the retrofitting of existing buildings, as applicable.

(2) Notwithstanding any provision of law to the contrary, including, but not limited to paragraph (1), the board, after consulting with the relevant regulatory agencies, shall, to the extent feasible, adopt regulations establishing a process for projects to be subject to a streamlined method for obtaining regulatory approvals for all requirements described in paragraph (1), except for the requirements of the Field Act as defined in Section 17281 which shall be complied with in the same manner as any other project under this chapter.

(3) The board shall fund only new construction to be physically located within the geographical jurisdiction of a school district.
(d) Facilities funded pursuant to this article shall have a 50 percent local share matching obligation that may be paid by the applicant through lease payments in lieu of the matching share, or as otherwise set forth in this article, including, but not limited to, Section 17078.58.
(e) The authority may charge its administrative costs against the respective 2002, 2004, or 2006 Charter School Facilities Account, which shall be subject to the approval of the Department of Finance and which may not exceed 2.5 percent of the account.

EC 17078.56. (a) The board, in consultation with the authority, shall approve projects pursuant to this article as otherwise set forth in this chapter, and shall make preliminary apportionments only to financially sound applicants in accordance with all of the following criteria:
(1) The board shall seek to ensure that, when considered as a whole, the applications approved pursuant to this article are fairly representative of the various geographical regions of the state.
(2) The board shall seek to ensure that, when considered as a whole, the applications approved pursuant to this article are fairly representative of urban, rural, and suburban regions of the state.
(3) The board shall seek to ensure that, when considered as a whole, the applications approved pursuant to this article are fairly representative of large, medium, and small charter schools throughout the state.
(4) The board shall seek to ensure that, when considered as a whole, the applications approved pursuant to this article are fairly representative of the various grade levels of pupils served by charter school applicants throughout the state.
(b) While ensuring that the requirements of subdivision (a) are met when considering all approved projects under this article as a whole, the board shall, within each factor of the criteria set forth in subdivision (a), give a preference to charter schools in overcrowded school districts, charter schools in low-income areas, charter schools operated by not-for-profit entities, and charter schools that utilize existing school district facilities.

EC 17078.57. (a) The authority, in consultation with the board, shall adopt regulations establishing uniform terms and conditions that shall apply equally to all projects for funding in accordance with Section 17078.58, including, but not limited to, all of the following:
(1) The process for determining the manner in which the applicant will pay its local matching share, including the method for determining lease payments to be made in lieu of the local matching share. The regulations shall comply with all of the following criteria:
(A) The payment process set forth in Section 17199.4 may be used.
(B) The payment process shall permit lump-sum local matching payments and shall permit establishment of a schedule for lease payments to be made in lieu of the local matching share.
(C) The lease payment schedule shall be calculated by amortizing one-half of the total approved project costs, minus lump-sum payments, over the entire payment period as set forth in Section 17078.58.
(D) The payment schedule for payments in lieu of the local matching funds pursuant to this section shall be based upon payment, within a reasonable period of time not to exceed a 30-year period, of one-half of the total eligible project costs, and shall be calculated in a manner that is designed to result in full payment of that portion, together with interest thereon at a rate set by the authority. The interest rate shall be set using the lower of the following:
(i) The rate paid on moneys in the Pooled Money Investment Account as of the date of disbursement of the funding.
(ii) A rate equal to 50 percent of the interest rate paid by the state on the most recent sale of state general obligation bonds, and the interest rate shall be computed according to the true interest cost method.
(E) Notwithstanding subparagraph (D), the authority shall not set the interest rate on a loan at a rate lower than 2 percent. Program participants that have locked in an interest rate before January 1, 2009, may reset their payment schedule based on the interest rate set pursuant to subparagraph (D) as of January 1, 2009. Program participants executing an agreement on and after January 1, 2009, shall have their interest rate set at the time the funding agreement is executed and shall not renegotiate interest rates without prior approval of the authority.

(2) The method for determining whether a charter school is financially sound. In the case of a charter school chartered by a school district that is located outside of the school district that chartered it, the method developed by the authority shall include, but shall not be limited to, a site visit to the school facility currently being used by the charter school during hours when pupils are present and instruction is being provided.

(3) (A) Security provisions, including, but not limited to, whether title to project facilities shall be held by the school district in which the facility is to be physically located, in trust, for the benefit of the state public school system, or by another entity as authorized pursuant to Section 17078.63.

(B) The authority shall adopt a mechanism whereby a person or entity who provides a substantial contribution that is applied to the costs of the project in excess of the state share and the local matching share may be granted a security interest to be satisfied from the proceeds, if any, realized when the property is ultimately disposed of as set forth in paragraph (5) of subdivision (b) of Section 17078.62.

(4) The method for integrating funding pursuant to this article with the general procedures of the authority pursuant to subdivision (i) of Section 17180 for otherwise funding projects eligible for funding under this chapter, if appropriate.

(b) The authority may adopt, amend, or repeal rules and regulations pursuant to this chapter as emergency regulations. The adoption, amendment, or repeal of these regulations is conclusively presumed to be necessary for the immediate preservation of the public peace, health, safety, or general welfare within the meaning of Section 11346.1 of the Government Code.

EC 17078.58. (a) Funding granted pursuant to this article may not exceed 100 percent of the total allowable project costs as determined by calculating double the per-pupil grant eligibility as set forth in Section 17072.10, and subdivision (e) of Section 17078.53, plus 100 percent of all other allowable construction project costs, as appropriate to the project, that would otherwise be available to school district projects as set forth in this chapter. Funding granted for the purposes of rehabilitating buildings under Section 17078.54 shall be limited to the costs necessary to comply with subdivision (c) of Section 17078.54, and shall not exceed the maximum costs that would otherwise be allowable for a new construction project funded under this article.

(b) The local share equivalent shall be collected in the form of lease payments or otherwise as set forth in this article.

(c) Lease payments in lieu of local share payments, and any other local share payments made pursuant to this article, shall be made to the board for deposit into the respective 2002, 2004, or 2006 Charter School Facilities Account. Funds deposited into the account pursuant to this section may be used by the board only for a purpose related to charter school facilities pursuant to this article.

(d) When a preliminary apportionment under this article is converted to a final apportionment, any funds not needed for the final apportionment shall remain in the 2002, 2004, or 2006 Charter School Facilities Account for use by the board for any purpose related to charter school facilities pursuant to this article.

EC 17078.62. (a) As a first priority, the existing charter school shall be permitted to continue to use the facility until it is no longer needed by the charter school for charter school purposes.

(b) If the charter school occupying a facility funded pursuant to this article ceases to utilize the facility for a charter school purpose, all of the following apply:

(1) If the charter school is no longer using the facility because the school district in which the charter school is located has revoked or declined to renew the charter, the school district, as a necessary component of the first priority established in subdivision (a), may not immediately occupy the facility, but shall allow a reasonable time, not to exceed six months, for completion of the review process contemplated in Section 47607 or 47607.5.

(2) As a second priority, any qualifying successor charter school shall be permitted to meet its facility needs by occupying the facility on equal terms as the prior charter school occupant, including, but not limited to, assumption of fee simple title to the facility, as described in paragraph (3) of subdivision (a) of Section 17078.63.

(3) As a third priority, the school district in which the charter school is physically located may notify the authority and take possession and take title to the facility, if the title is not already held by the district, and make the facility available for continued use as a public school facility.

(4) If the school district in which the charter school is physically located elects to take possession of a facility pursuant to paragraph (3), it shall pay the balance of the unpaid local matching share or demonstrate that it is willing and able to continue to make the lease payments in lieu of the local matching share on the same terms. However, the payments shall be reduced or eliminated, as appropriate, if the school district complies with all of the following:

(A) It demonstrates that it would have been eligible for hardship funding under Article 8 (commencing with Section 17075.10) at the time that the application for funding the facility under this article was originally submitted.

(B) It certifies to the board that it will utilize the facilities for public school purposes for a period of at least five years from the date that it occupies the facility.

(5) (A) If the school district declines to take possession pursuant to paragraph (3), or if the facility is subsequently no longer needed for public school purposes, the school district shall dispose of the facilities in a manner otherwise applicable to the disposal of surplus public schoolsites. Any unpaid local matching share shall be paid from the net proceeds, if any, of the disposition and shall be deposited into the respective 2002, 2004, or 2006 Charter School Facilities Account. To the extent that funds remain from the proceeds of the disposition after repayment of the local matching share, any security interest granted to a person or entity pursuant to subparagraph (B) of paragraph (3) of subdivision (a) of Section 17078.57 shall be satisfied. Funds remaining from the proceeds after any security interest has been satisfied shall be paid to the school district in which the facility is located to be used for capital improvements in the school district.

(B) If title to the facility is held by a charter school or a local governmental entity other than the school district, and the school district declines to dispose of the facility, the board shall dispose of the facility in accordance with the provisions that would otherwise apply to the disposal of surplus school property by the school district, including, but not limited to, Chapter 4 (commencing with Section 17385) of Part 10.5. The proceeds of the disposition shall be distributed in accordance with subparagraph (A).

(6) If the lease payments in lieu of the local matching share are fully paid, the school district shall continue to hold title to the facility, in trust, for the benefit of the state public school system. The school district shall permit continued use of the facility for charter school purposes as long as the facility is needed for those purposes.

EC 17078.63. (a) Prior to the release of funds for an application submitted pursuant to paragraph (2) of subdivision (b) of Section 17078.53 for site acquisition or new construction final apportionments, applicants shall provide one of the following:

(1) Documentary evidence that the school district in which the facility is to be physically located holds title to the project facilities in trust for the benefit of the state public school system.

(2) Documentary evidence that a local governmental entity, including, but not limited to, a county board of education, a city, a county, or a city and county, holds title to the project facilities in trust for the benefit of the state public school system, subject to both of the following conditions:

(A) Consistent with the prohibition in Section 6 of Article IX of the California Constitution regarding governance of public schools, a city, county, city and county, or other local governmental entity not included within the public school system that holds title pursuant to this paragraph shall not exercise any control over the operation of the charter school.

(B) The following shall be recorded in the chain of title for the property:

(i) A restrictive covenant specifying that the facility shall be used only for public school purposes as authorized in the California Constitution and statute.

(ii) A remainder interest to the school district in which the facility is physically located or, if the school district disclaims the interest to the facility, to the board. The remainder interest shall be triggered when the facility is no longer needed for charter school purposes and shall then be subject to paragraphs (2) to (6), inclusive, of subdivision (b) of Section 17078.62.

(3) (A) A request that the charter school be authorized to hold fee simple title to the subject property in trust for the benefit of the state public school system, on which a lien shall be recorded in favor of the board for the total amount of funds allocated pursuant to this article, including any loan received in lieu of a local matching share pursuant to Section 17078.57. The charter school shall include with the request a statement outlining the reasons why ownership of the project facilities is not vested with an entity set forth in paragraph (1) or (2). Prior to releasing any project funds, the board shall make findings that the applicant has submitted all of the information required by this paragraph.

(B) The following shall be recorded in the chain of title for the property:
(i) A restrictive covenant specifying that the facility shall be used only for public school purposes as authorized in the California Constitution and statute. (ii) A remainder interest to the school district in which the facility is physically located or, if the school district disclaims the interest to the facility, to the board. The remainder interest shall be triggered when the facility is no longer needed for charter school purposes and shall then be subject to paragraphs (2) to (6), inclusive, of subdivision (b) of Section 17078.62.
(b) A charter school may request a school district to transfer title to project facilities to an entity authorized by paragraph (2) or (3) of subdivision (a) if the school district entered into an agreement, prior to January 1, 2010, to hold title to those facilities. A school district that receives a request pursuant to this subdivision may transfer the title to the entity designated in the request pursuant to terms and conditions mutually agreed upon by the district and the charter school.
(c) The board may adopt regulations to implement this section.

EC 17078.64. (a) In lieu of applying for funding under this article, a school district may elect to include facilities for a charter school that would be physically located within its geographical jurisdiction within its application for funding pursuant to the general provisions of this chapter, other than this article. However, the project would be outside the scope of this article, would not be subject to its provisions, and shall comply with this chapter in the same manner as any noncharter project. Any per-pupil eligibility that is used for that project shall not, also, support any project under this article.
(b) Except for those provisions in which the authority is expressly required or authorized to adopt regulations pursuant to this article, the board in consultation with the authority shall adopt regulations to implement this article. The board may adopt, amend, or repeal rules and regulations pursuant to this article as emergency regulations. Until July 1, 2004, the adoption, amendment, or repeal of these regulations is conclusively presumed to be necessary for the immediate preservation of the public peace, health, safety, or general welfare within the meaning of Section 11346.1 of the Government Code.
(c) This article is not applicable to projects funded with the proceeds of state general obligation bonds approved by the voters prior to January 1, 2002.

EC 17078.66. The State Allocation Board and the California School Finance Authority shall jointly report to the Legislature by July 1, 2005, regarding all of the following:
(a) The implementation of this article, including, but not limited to, a description of the projects funded pursuant to this article from the Kindergarten-University Public Education Facilities Bond Act of 2004.
(b) A description of the process whereby the board provides funding for charter school facilities under provisions of this chapter other than this article.
(c) Recommendations, if any, regarding statutory changes needed to facilitate and streamline the process described in subdivision (b).

SFP Regulation Section 1859.164. Application Funding Criteria.
If the estimated total apportionments of all Financially Sound Preliminary Charter School Applications received in either filing period specified in Section 1859.161 exceed the funds available, the applications shall be identified in each of the following four categories:
(a) Geographical Region One, Two, Three, or Four.
(b) Urban, Rural, or Suburban areas.
(c) Large, Medium, or Small Charter Schools.
(d) K-6, 7-8, or 9-12 grade levels.
The Board shall first apportion one project of each possible type, a maximum of four in category (a) and a maximum of three in categories (b) through (d), starting with (a) and continuing through (d). If more than one application is received of the same type within a category, the Board will apportion based on which project has the highest preference points, calculated in Section 1859.164.1. If a project has the highest preference points but was previously apportioned, the project with the next highest preference points will be apportioned. The same process will continue for the remaining categories until the Board has apportioned a project within each type in categories (a) through (d),

or until no funding remains. If after funding one project in each category (a) through (d), funding remains available, the process shall be repeated until no funding remains.

All funds approved as a Preliminary Charter School Apportionment shall be transferred to the Restricted Charter School Fund within the appropriate Charter School Facility Account. Any funds not approved as a Preliminary Charter School Apportionment shall be transferred to the Unrestricted Charter School Fund within the appropriate Charter School Facility Account.

All Preliminary Charter School Applications received from a Charter School will be processed in the date order received by the OPSC. If more than one Preliminary Charter School Application is received on the same day from the same entity for a Charter School project located within the geographical jurisdiction of same district, those applications will be processed by the OPSC based on the priority order assigned to those applications by the applicant on Form SAB 50-09.

If two or more Preliminary Charter School Applications have the same preference points, the Board shall first apportion that Preliminary Charter School Application that was received first by the OPSC. In the event that the applications were received on the same day, applications will be funded in the following order:
(a) Projects submitted by entities that have not previously received funding under the SFP, the CSFP or the State Charter School Facilities Grants Incentives Program will be funded before those that have received said funding;
(b) Projects proposing to utilize existing facilities will be funded before projects that propose to build new facilities;
(c) As applicable, projects that provide more seats to relieve overcrowding will be funded over those that provide fewer seats (as determined by dividing the number of unhoused pupils pursuant to Section 1859.50 that the project will house by the remaining new construction eligibility in the district);

In the event that a tie remains after the previous criteria have been applied, a lottery system will be used to select the project that is funded.

Any applications the SAB is unable to provide a Preliminary Charter School Apportionment to will be returned to the Charter School.

SFP Regulation Section 1859.166. Time Limit on Preliminary Charter School Apportionment.
(a) A complete request to convert a Preliminary Charter School Apportionment to a Final Charter School Apportionment pursuant to Section 1859.165 shall be made within four years of the date of the Preliminary Charter School Apportionment unless the Charter School received approval of an extension pursuant to Section 1859.166.1.
(b) If (a) is not met, and the Charter School has not received an advance release of funds as provided in Section 1859.164.2, the following will occur:
(1) the Preliminary Charter School Apportionment shall be rescinded and any remaining Preliminary Charter School Apportionment, not released to the Charter School, shall be transferred to the Unrestricted Charter School Fund within the appropriate Charter School Facility Account, and;
(2) the SFP New Construction Eligibility will be increased by the number of unhoused pupils pursuant to Section 1859.162.2 for the school district that physically contains the Charter School within its geographical boundaries.
(c) If (a) is not met, and the Charter School has received an advance release of funds as provided in Section 1859.164.2, the following will occur:
(1) The Preliminary Charter School Apportionment shall be rescinded and any remaining Preliminary Charter School Apportionment, not released to the Charter School, shall be transferred to the Unrestricted Charter School Fund within the appropriate Charter School Facility Account, and;
(2) Funds released pursuant to Section 1859.164.2(a) shall be reduced to cost incurred and closed-out pursuant to Section 1859.106 with a corresponding SFP new construction baseline eligibility adjustment for the pupils assigned to the Preliminary Charter School Application. The adjustment to the baseline eligibility shall be based on the ratio of the number of unhoused pupils pursuant to Section 1859.162.2 and the project capacity which generated the project funding to the eligible expenditures. Any funds released are subject to the fifty percent local matching share requirement as required by EC 17078.54(d). Funds returned pursuant to Section 1859.106 shall be transferred to the

Unrestricted Charter School Fund within the appropriate Charter School Facility Account, and;
(3) Funds released pursuant to Section 1859.164.2(b) shall be subject to the provisions of Section 1859.171.
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Section 1859.166.1. Preliminary Charter School Apportionment Time Limit Extension.
A Charter School that has received a Preliminary Charter School Apportionment may request a single one-year extension of the time limit prescribed in Section 1859.166(a). The Board shall approve the request provided the criteria in (a) or (b) are met:
(a) The Charter School has provided evidence of both of the following:
(1) The CDE has made a contingent or final approval of the proposed site; and,
(2) The DSA has confirmed that the final plans for the project have been submitted to the DSA for review and approval.
(b) Other evidence satisfactory to the Board justifying the extension.

SAB Meeting: **November 25, 2014**

Charter School Facilities Program
Preliminary Apportionment

SCHOOL DISTRICT DATA

Application No	54/75283-00-003	**County**	Sacramento
School District	Natomas Unified	**Charter School**	Natomas Charter
		School Name	Natomas Charter

PROJECT DATA

Type of Project:		High School
Pupils Assigned	**K-6:**	25
	7-8:	27
	9-12:	54
	Non-Severe:	13
	Severe:	0
Application Filing Basis:		Charter
Number of Classrooms:		5
Master Plan Acres:		
Existing Acres:		13.69
Proposed Acres:		0.0
Recommended Acres:		35.2

PRELIMINARY GRANT DATA

Charter School Base Grant	$ 1,539,003.00
Site Development	250,000.00
Subtotal	1,789,003.00
Inflator Factor	250,460.00
Total State Project Share (50%)	2,039,463.00
CSFA Lease-Payment Amount	2,039,463.00
Charter School Cash Contribution	0.00
Total Project Cost	**$ 4,078,926.00**

PROJECT FINANCING

State Share	
This Project	$ 2,039,463.00
Charter School Share	
CSFA Lease Amount	2,039,463.00
Cash Contribution	
Total Project Cost	**$ 4,078,926.00**

HISTORY OF PROJECT COST AND APPORTIONMENT

	Fund Code	Proposition	Authorized This Action	Unfunded Preliminary Apportionment
State Share				
Charter School Grant	**947-510**	**47**	$ 2,039,463.00	$ 2,039,463.00
Charter School Share				
CSFA Lease Amount	**947-510**	**47**	2,039,463.00	2,039,463.00
Cash Contribution				
Total Project Cost			**$ 4,078,926.00**	**$ 4,078,926.00**

Funding Source: Proposition 47 Bonds/2002-November

The above Charter School Grant is a maximum reservation of funding for each of the construction and site acquisition amounts (50 percent State share amount) and is not intended to reflect the actual project costs at the time the project is converted to a Final Charter School Apportionment (FCSA).
The FCSA shall be based on SAB regulation allowances established at the time the project is converted and shall not exceed the maximum amounts in each category.

Senate Bill 854, Chapter 28, Statutes of 2014, repealed Labor Code (LC) Section 1771.3 which required school districts to provide payment to Department of Industrial Relations (DIR) for prevailing wage monitoring. As a result, school districts awarding a construction contract on or after June 20, 2014 are not mandated to provide payment for DIR monitoring and enforcement of prevailing wage requirements.
Projects with an initial public works project awarded on or after June 20, 2014 are not eligible to receive an additional grant for prevailing wage monitoring; however, school districts are still required to notify DIR within five days of initial contract award pursuant to LC Section 1773.3(a)(1).

The Applicant shall ensure that it is in compliance with all applicable laws, regulations and certifications it made on the program forms.

SAB Meeting: **November 25, 2014**

Charter School Facilities Program
Rehabilitation Preliminary Apportionment

SCHOOL DISTRICT DATA

Application No	54/75283-00-004	**County**	Sacramento
School District	Natomas Unified	**Charter School**	Natomas Charter
		School Name	Natomas Charter

PROJECT DATA

Type of Project:		High School
Pupils Assigned	**K-6:**	
	7-8:	
	9-12:	
	Non-Severe:	
	Severe:	
	Non-Toilet sq. ft.:	4,800
	Toilet sq. ft.:	1,440

Application Filing Basis:	Charter
Number of Classrooms:	5
Master Plan Acres:	
Existing Acres:	13.69
Proposed Acres:	0.0
Recommended Acres:	35.2

PRELIMINARY GRANT DATA

Charter School Base Grant	**$**	1,198,080.00
Urban/Security/Impacted Site		263,893.00
Subtotal		1,461,973.00
Inflator Factor		204,676.00
Total State Project Share (50%)		1,666,649.00
CSFA Lease-Payment Amount		1,666,649.00
Charter School Cash Contribution		0.00
Total Project Cost	**$**	**3,333,298.00**

PROJECT FINANCING

State Share		
This Project	**$**	1,666,649.00
Charter School Share		
CSFA Lease Amount		1,666,649.00
Cash Contribution		
Total Project Cost	**$**	**3,333,298.00**

HISTORY OF PROJECT COST AND APPORTIONMENT

	Fund Code	Proposition		Authorized This Action		Unfunded Preliminary Apportionment
State Share						
Charter School Grant	**947-510**	**47**	**$**	269,973.00	**$**	269,973.00
Charter School Grant	**955-940**	**55**		1,396,676.00		1,396,676.00
Charter School Share						
CSFA Lease Amount	**947-510**	**47**		269,973.00		269,973.00
CSFA Lease Amount	**955-540**	**55**		1,396,676.00		1,396,676.00
Cash Contribution						
Total Project Cost			**$**	**3,333,298.00**	**$**	**3,333,298.00**

Funding Sources: Proposition 47 Bonds/2002-November; Proposition 55 Bonds/2004-March

The above Charter School Grant is a maximum reservation of funding for each of the construction and site acquisition amounts (50 percent State share amount) and is not intended to reflect the actual project costs at the time the project is converted to a Final Charter School Apportionment (FCSA).
The FCSA shall be based on SAB regulation allowances established at the time the project is converted and shall not exceed the maximum amounts in each category.

Senate Bill 854, Chapter 28, Statutes of 2014, repealed Labor Code (LC) Section 1771.3 which required school districts to provide payment to Department of Industrial Relations (DIR) for prevailing wage monitoring. As a result, school districts awarding a construction contract on or after June 20, 2014 are not mandated to provide payment for DIR monitoring and enforcement of prevailing wage requirements.
Projects with an initial public works project awarded on or after June 20, 2014 are not eligible to receive an additional grant for prevailing wage monitoring; however, school districts are still required to notify DIR within five days of initial contract award pursuant to LC Section 1773.3(a)(1).

The Applicant shall ensure that it is in compliance with all applicable laws, regulations and certification it made on the program forms.

SCHOOL DISTRICT DATA

Application No	54/61259-00-004	**County**	Alameda
School District	Oakland Unified	**Charter School**	Lazear Charter Academy
		School Name	Lazear Charter Academy

PROJECT DATA

Type of Project:		Middle School
Pupils Assigned	**K-6:**	
	7-8:	
	9-12:	
	Non-Severe:	
	Severe:	
	Non-Toilet sq. ft.:	24,262
	Toilet sq. ft.:	1,345

Application Filing Basis:	Charter
Number of Classrooms:	18
Master Plan Acres:	
Existing Acres:	3.0
Proposed Acres:	0.0
Recommended Acres:	9.1

PRELIMINARY GRANT DATA

Charter School Base Grant	**$**	4,323,184.00
Urban/Security/Impacted Site		1,037,175.00
Subtotal		5,360,359.00
Inflator Factor		750,450.00
Total State Project Share (50%)		6,110,809.00
CSFA Lease-Payment Amount		6,110,809.00
Charter School Cash Contribution		0.00
Total Project Cost	**$**	**12,221,618.00**

PROJECT FINANCING

State Share		
This Project	**$**	6,110,809.00
Charter School Share		
CSFA Lease Amount		6,110,809.00
Cash Contribution		
Total Project Cost	**$**	**12,221,618.00**

HISTORY OF PROJECT COST AND APPORTIONMENT

	Fund Code	Proposition		Authorized This Action		Unfunded Preliminary Apportionment
State Share						
Charter School Grant	**955-540**	**55**	**$**	6,110,809.00	**$**	6,110,809.00
Charter School Share						
CSFA Lease Amount	**955-540**	**55**		6,110,809.00		6,110,809.00
Cash Contribution						
Total Project Cost			**$**	**12,221,618.00**	**$**	**12,221,618.00**

Funding Source: Proposition 55 Bonds/2004-March

The above Charter School Grant is a maximum reservation of funding for each of the construction and site acquisition amounts (50 percent State share amount) and is not intended to reflect the actual project costs at the time the project is converted to a Final Charter School Apportionment (FCSA). The FCSA shall be based on SAB regulation allowances established at the time the project is converted and shall not exceed the maximum amounts in each category.

Senate Bill 854, Chapter 28, Statutes of 2014, repealed Labor Code (LC) Section 1771.3 which required school districts to provide payment to Department of Industrial Relations (DIR) for prevailing wage monitoring. As a result, school districts awarding a construction contract on or after June 20, 2014 are not mandated to provide payment for DIR monitoring and enforcement of prevailing wage requirements.
Projects with an initial public works project awarded on or after June 20, 2014 are not eligible to receive an additional grant for prevailing wage monitoring; however, school districts are still required to notify DIR within five days of initial contract award pursuant to LC Section 1773.3(a)(1).

The Applicant shall ensure that it is in compliance with all applicable laws, regulations and certifications it made on the program forms.

(Rev. 1)

SAB Meeting: **November 25, 2014**

Charter School Facilities Program
Preliminary Apportionment

SCHOOL DISTRICT DATA

Application No	54/76869-00-001	**County**	Los Angeles
School District	Wiseburn Unified	**Charter School**	Da Vinci Design
		School Name	Da Vinci Design

PROJECT DATA

Type of Project:		High School
Pupils Assigned	**K-6:**	
	7-8:	
	9-12:	1296
	Non-Severe:	
	Severe:	
Application Filing Basis:		Charter
Number of Classrooms:		48
Master Plan Acres:		
Existing Acres:		
Proposed Acres:		13.52
Recommended Acres:		36.4

PRELIMINARY GRANT DATA

Charter School Base Grant	$	17,865,360.00
Multi-Level Constr.		2,143,843.00
Site Acquisition		19,278,000.00
Site Development		946,400.00
General Site		968,315.00
Urban/Security/Impacted Site		7,450,105.00
Subtotal		48,652,023.00
Inflator Factor		4,112,363.00
Total State Project Share (50%)		52,764,386.00
CSFA Lease-Payment Amount		0.00
Charter School Cash Contribution		52,764,386.00
Total Project Cost	$	**105,528,772.00**

PROJECT FINANCING

State Share		
This Project	$	52,764,386.00
Charter School Share		
CSFA Lease Amount		
Cash Contribution		52,764,386.00
Total Project Cost	$	**105,528,772.00**

HISTORY OF PROJECT COST AND APPORTIONMENT

	Fund Code	Proposition		Authorized This Action		Unfunded Preliminary Apportionment
State Share						
Charter School Grant	**955-540**	**55**	$	52,764,386.00	$	52,764,386.00
Charter School Share						
CSFA Lease Amount						
Cash Contribution				52,764,386.00		
Total Project Cost			$	**105,528,772.00**	$	**52,764,386.00**

Funding Source: Proposition 55 Bonds/2004-March

The above Charter School Grant is a maximum reservation of funding for each of the construction and site acquisition amounts (50 percent State share amount) and is not intended to reflect the actual project costs at the time the project is converted to a Final Charter School Apportionment (FCSA).
The FCSA shall be based on SAB regulation allowances established at the time the project is converted and shall not exceed the maximum amounts in each category.

Senate Bill 854, Chapter 28, Statutes of 2014, repealed Labor Code (LC) Section 1771.3 which required school districts to provide payment to Department of Industrial Relations (DIR) for prevailing wage monitoring. As a result, school districts awarding a construction contract on or after June 20, 2014 are not mandated to provide payment for DIR monitoring and enforcement of prevailing wage requirements.
Projects with an initial public works project awarded on or after June 20, 2014 are not eligible to receive an additional grant for prevailing wage monitoring; however, school districts are still required to notify DIR within five days of initial contract award pursuant to LC Section 1773.3(a)(1).

The Applicant shall ensure that it is in compliance with all applicable laws, regulations and certifications it made on the program forms.

STATE ALLOCATION BOARD
APPROVAL ❖ ❖ ❖ November 25, 2014

SAB Meeting: **November 25, 2014**

Charter School Facilities Program
Preliminary Apportionment

SCHOOL DISTRICT DATA

Application No	54/66670-00-004	**County**	Orange
School District	Santa Ana Unified	**Charter School**	El Sol Santa Ana Science And Arts Academy
		School Name	El Sol Santa Ana Science And Arts Academy

PROJECT DATA

Type of Project:		Middle School
Pupils Assigned	**K-6:**	364
	7-8:	189
	9-12:	
	Non-Severe:	26
	Severe:	
Application Filing Basis:		Charter
Number of Classrooms:		24
Master Plan Acres:		
Existing Acres:		1.97
Proposed Acres:		0.0
Recommended Acres:		14.0

PRELIMINARY GRANT DATA

Charter School Base Grant	**$**	6,143,519.00
Multi-Level Constr.		737,222.00
Site Development		137,900.00
Urban/Security/Impacted Site		4,209,502.00
Subtotal		11,228,143.00
Inflator Factor		1,571,940.00
Total State Project Share (50%)		12,800,083.00
CSFA Lease-Payment Amount		12,800,083.00
Charter School Cash Contribution		0.00
Total Project Cost	**$**	**25,600,166.00**

PROJECT FINANCING

State Share		
This Project	**$**	12,800,083.00
Charter School Share		
CSFA Lease Amount		12,800,083.00
Cash Contribution		
Total Project Cost	**$**	**25,600,166.00**

HISTORY OF PROJECT COST AND APPORTIONMENT

	Fund Code	Proposition		Authorized This Action		Unfunded Preliminary Apportionment
State Share						
Charter School Grant	**955-540**	**55**	**$**	7,865,362.50	**$**	7,865,362.50
Charter School Grant	**957-540**	**1D**		872,547.50		872,547.50
Charter School Share						
CSFA Lease Amount	**955-540**	**55**		7,865,362.50		7,865,362.50
CSFA Lease Amount	**957-540**	**1D**		872,547.50		872,547.50
Cash Contribution						
Total Project Cost			**$**	**17,475,820.00**	**$**	**17,475,820.00**

Funding Sources: Proposition 55 Bonds/2004-March; Proposition 1D Bonds/2006-November

The above Charter School Grant is a maximum reservation of funding for each of the construction and site acquisition amounts (50 percent State share amount) and is not intended to reflect the actual project costs at the time the project is converted to a Final Charter School Apportionment (FCSA).
The FCSA shall be based on SAB regulation allowances established at the time the project is converted and shall not exceed the maximum amounts in each category.

As there is only $17,475,820 remaining to fund this project, the Charter School has agreed to a reduced unfunded Preliminary Apportionment. However, should any funding return to the Charter School Facilities Program within eight months of this approval, that authority will be used to first augment this award up to the full total project cost of $25,600,166.

Senate Bill 854, Chapter 28, Statutes of 2014, repealed Labor Code (LC) Section 1771.3 which required school districts to provide payment to Department of Industrial Relations (DIR) for prevailing wage monitoring. As a result, school districts awarding a construction contract on or after June 20, 2014 are not mandated to provide payment for DIR monitoring and enforcement of prevailing wage requirements.
Projects with an initial public works project awarded on or after June 20, 2014 are not eligible to receive an additional grant for prevailing wage monitoring; however, school districts are still required to notify DIR within five days of initial contract award pursuant to LC Section 1773.3(a)(1).

The District shall ensure that it is in compliance with all applicable laws, regulations and certifications it made on the program forms.

STATE ALLOCATION BOARD
APPROVAL ❖ ❖ ❖ November 25, 2014

REPORT OF THE EXECUTIVE OFFICER
State Allocation Board Meeting, November 25, 2014

SCHOOL DISTRICT DATA	
School District: .....Livermore Valley Joint Unified	County:.....Alameda
Application Number(s): 50/61200-00-002, 50/61200-00-003	School Names: Granada High School, Livermore High School
Total District Enrollment:..... 6,450	Project Grade Level:..... ……..9-12
Financial Hardship ……No	

PURPOSE OF REPORT

To present the State Allocation Board (Board) with information regarding two Livermore Valley Joint Unified School District (District) new construction projects.

DESCRIPTION

The District has two applications that are currently in the Office of Public School Construction (OPSC) closeout review process. It has come to Staff's attention that on March 12, 2010, the Alameda County Superior Court found that the District's modular building construction practices violate the competitive bidding requirements of the Public Contract Code (PCC). The District failed to competitively bid contracts for construction of new facilities at Granada and Livermore High Schools. Staff has confirmed that these facilities received state funding under OPSC application numbers 50/61200-00-002 and 50/61200-00-003 respectively, and is seeking Board direction.

AUTHORITY

See Attachment A.

BACKGROUND

Under the Leroy F. Greene School Facilities Act of 1998, the Board is given the authority to review expenditure reports and school district records in order to assure funds received under the act are expended in accordance with program requirements, as specified in Education Code (EC) 17076.10. When a project is complete, OPSC has two years to commence the final expenditure review. Once the district has been notified that a review has been started, Staff has six months to complete the review unless the district has been notified in writing that the project is still under review for any reason. If a district receives an additional fund release, that is not considered an expenditure review adjustment, before the final expenditure review process begins, the clock to complete the project (four years) and commence the final expenditure review (two years) is restarted.

In 2008, the District received apportionments for two new construction high school projects. The table below contains the details for each project.

Project Information	Granada High School	Livermore High School
Pupil Grants	378	243
Total Apportionment (State Share)	$4,878,568	$4,767,998
Modular Classrooms Constructed	14	9
Additional Space	Custodial, Storage, Toilets	Storage, Teacher Workroom, Toilets
Project Increments	2 (site work, placing buildings)	1

(Continued on Page Two)

BACKGROUND (cont.)

In May 2010, OPSC became aware of the Alameda County Superior Court's order concerning the District's failure to competitively bid contracts for multiple projects.

By June 2010 the District had submitted a final expenditure report showing 100 percent project completion for both projects. In March 2011, OPSC notified the District that both sites would undergo a final expenditure review pursuant to SFP Regulation Section 1859.106.

During Staff's review of the additional contract documentation, the District requested additional analysis of the site development grants received as part of the original apportionments. Upon further review, OPSC found that each project was eligible to receive additional site development grants. In September 2013, the Granada High School application received an additional fund release for approximately $10,000 in site development grants. In December 2013, the Livermore project received an additional fund release of approximately $21,000 in site development grants.

STAFF ANALYSIS/STATEMENTS

Court Order
The Alameda County Superior Court granted the petition for writ of mandate and declaratory relief against the District on March 26, 2010. The Court stated that the District's practice, of soliciting bids for a single construction project with the option of renewing the accepted low bid for use on separate and discrete construction project is inconsistent with and violates the competitive bidding requirements of Public Contract Code section 20106 and 20111, and is beyond the discretion granted to the District under Education Code section 35160. The complete Alameda County Superior Court judgment is included as Attachment B.

District Position
It is the District's position that the competitive bidding process and use of purchase orders was done in good-faith belief that all actions were in compliance with state law, and that the District never acted intentionally to avoid the application of the competitive bidding statutes.

In April 2004, the District issued a call for bids to replace seven buildings at the Leo Croce Elementary School site. The bid specified that the contract could be renewed annually in accordance with EC Sections 17596 and 35160. The District believes that its reliance on EC Sections 17596 and 35160, in awarding subsequent contracts based upon the initial competitively bid Leo Croce project, is in substantial compliance with the law requiring that contracts be competitive bid and further that its actions achieved the purpose of the of the competitive bid statutes, in the first instance namely, to guard against fraud or corruption and to secure the best work at the lowest price possible.

The District understands the Court decision on March 12, 2010, but respectfully disagrees with the Court's findings and contends that based on the provisions of EC Sections 17569 and 35160, the District's conduct was legal and permissible. Even though it disagrees with the Court ruling, the District will cease doing business in this manner to avoid any question about compliance with the competitive bid statutes in the future.

A more detailed description of the District's position is included as Attachment C.

(Continued on Page Three)

STAFF ANALYSIS/STATEMENTS (cont.)

Staff Position
Both projects are currently in the active closeout process. Just before the closeout process began OPSC became aware of questions concerning the District's competitive bidding practices.

The funding and closeout process includes many steps and requires different documentation to be submitted at each stage. During the funding application phase, districts are not required to provide any construction contract or bidding documents. When districts request a fund release, they are required to submit a copy of the construction contract signature pages. During the final expenditure audit, districts may be required to submit all of their contract and bidding information for a detailed review.

The purpose of the final expenditure review is to ensure that project expenditures are made in accordance with the provisions of various EC Sections. EC Section 17072.35 provides a list of the eligible new construction expenditures, including but not limited to, cost of design, construction management, acquisition and installation of portable classrooms, and demolition.

SFP Regulation Section 1859.106 provides OPSC requirements and restrictions of an expenditure review. This regulation section also specifies what types of adjustments OPSC can administratively make to projects during the review process. Adjustments can be made for differences in site acquisition costs, insurance proceeds collectable by the district, and prevailing wage monitoring. SFP Regulation Section 1859.106 does not provide rules and procedures due to instances in which a district may not have met specific statutory requirements. EC Section 17076.10, however provides the Board the ability to require repayment if it is determined that funds were not expended in accordance with EC.

Based on the facts presented in the Court decision, the District did not meet the competitive bidding requirements for the signed contracts for the Granada or Livermore High School projects. The Court decision however does not indicate that the District should return any state funding received and only requires that the District utilize a legal competitive bidding process moving forward. The District disagrees with the Court's decision and contends that its conduct was legal and permissible but will not pursue the matter further.

Conclusion
Staff has worked with the District to gather as much information as possible on their specific situation. SFP Regulation defines what steps and project adjustments can be made during the expenditure review process. While districts are required to meet all of the legal requirements, SFP Regulations do not require staff to make adjustments and determinations based on specific statutory compliance issues found during the review process. Therefore, Staff is seeking Board direction.

RECOMMENDATION

Seek Board Direction.

BOARD ACTION

In considering this Item, the State Allocation Board took no action.

ATTACHMENT A

Education Code (EC) Section 17070.70 states:

(a) Title, including, but not limited to, any leasehold interest as set forth in subdivision (c), to all property acquired, constructed, or improved with funds made available under this chapter shall be held by the school district to which the board grants the funds. Title, as defined solely for the purpose of a school district's eligibility to receive funds from the board pursuant to this chapter shall include an order for prejudgment possession issued by a court in an eminent domain proceeding.

(b) The applicant school district shall comply with all laws pertaining to the construction, reconstruction, or alteration of, or addition to, school buildings.

(c) Notwithstanding Section 17009.5, construction or modernization funds made available pursuant to this chapter may be expended upon property that is leased to the applicant school district only if the project qualified for and received approval by the board, prior to November 4, 1998, pursuant to Article 4 (commencing with Section 17055), of Chapter 12.

EC Section 17072.32 states:

(a) For any project that has received an apportionment pursuant to Section 17072.30, funding shall be released in amounts equal to the amount of the local match upon certification by the school district that the school district has entered into a binding contract for completion of the approved project.

(b) This section is operative January 1, 2008.

EC Section 17072.35 States:

A grant for new construction may be used for any and all costs necessary to adequately house new pupils in any approved project, and those costs may only include the cost of design, engineering, testing, inspection, plan checking, construction management, site acquisition and development, evaluation and response action costs relating to hazardous substances at a new or existing schoolsite, demolition, construction, acquisition and installation of portable classrooms, landscaping, necessary utility costs, utility connections and other fees, equipment including telecommunication equipment to increase school security, furnishings, and the upgrading of electrical systems or the wiring or cabling of classrooms in order to accommodate educational technology. A grant for new construction may also be used to acquire an existing government or privately owned building, or a privately financed school building, and for the necessary costs of converting the government or privately owned building for public school use. A grant for new construction may also be used for the costs of designs and materials that promote the efficient use of energy and water, the maximum use of natural lighting and indoor air quality, the use of recycled materials and materials that emit a minimum of toxic substances, the use of acoustics conducive to teaching and learning, and other characteristics of high performance schools.

EC Section 17076.10 states:

(a) A school district that has received any funds pursuant to this chapter shall submit a summary report of expenditure of state funds and of district matching funds annually until all state funds and district matching funds are expended, and shall then submit a final report to the board. The board may require an audit of these reports or other district records to ensure that all funds received pursuant to this chapter are expended in accordance with program requirements.

(b) If the board finds that a participating school district has made no substantial progress towards increasing its pupil capacity or modernizing its facilities within 18 months of the receipt of any funding pursuant to this chapter, the board shall rescind the apportionment in an amount equal to the unexpended funds.

(c) (1) If the board, after the review of expenditures or audit has been conducted pursuant to subdivision (a), determines that a school district failed to expend funds in accordance with this chapter, the department shall notify the school district of the amount that must be repaid to the 1998 State School Facilities Fund, the 2002 State School Facilities Fund, or the 2004 State School Facilities Fund, as the case may be, within 60 days. If the school district fails to make the required payment within 60 days, the department shall notify the

Controller and the school district in writing, and the Controller shall deduct an amount equal to the amount received by the school district under this subdivision, from the school district's next principal apportionment or apportionments of state funds to the school district, other than basic aid apportionments required by Section 6 of Article IX of the California Constitution. Any amounts obtained by the Controller shall be deposited into the 1998 State School Facilities Fund, the 2002 State School Facilities Fund, or the 2004 State School Facilities Fund, as appropriate.
(2) Notwithstanding paragraph (1), if the board determines that repayment of the full liability within 60 days after the board action would constitute a severe financial hardship, as defined by the board, for the school district, the board shall approve a plan of equal annual payments over a period of up to five years. The plan shall include interest on each year's outstanding balance at the rate earned on the state's Pooled Money Investment Account during that year. The Controller shall withhold amounts, other than basic aid apportionments required by Section 6 of Article IX of the California Constitution, pursuant to the plan.
(d) If a school district has received an apportionment, but has not met the criteria to have funds released pursuant to Section 17072.32 or 17074.15 within a period established by the board, but not to exceed 18 months, the board shall rescind the apportionment and deny the district's application.

EC Section 17596 states:

Continuing contracts for work to be done, services to be performed, or for apparatus or equipment to be furnished, sold, built, installed, or repaired for the district, or for materials or supplies to be furnished or sold to the district may be made with an accepted vendor as follows: for work or services, or for apparatus or equipment, not to exceed five years; for materials or supplies, not to exceed three years.

EC Section 35160 states:

On and after January 1, 1976, the governing board of any school district may initiate and carry on any program, activity, or may otherwise act in any manner which is not in conflict with or inconsistent with, or preempted by, any law and which is not in conflict with the purposes for which school districts are established.

Public Contract Code (PCC) Section 20106 states:

A school district shall not expend money apportioned under the State School Building Aid Law unless the contracts under which the funds are expended have been let after competitive bids pursuant to the Education Code.

PCC Section 20111 states:

(a) The governing board of any school district, in accordance with any requirement established by that governing board pursuant to subdivision (a) of Section 2000, shall let any contracts involving an expenditure of more than fifty thousand dollars ($50,000) for any of the following:
(1) The purchase of equipment, materials, or supplies to be furnished, sold, or leased to the district.
(2) Services, except construction services.
(3) Repairs, including maintenance as defined in Section 20115, that are not a public project as defined in subdivision (c) of Section 22002.
The contract shall be let to the lowest responsible bidder who shall give security as the board requires, or else reject all bids.
(b) The governing board shall let any contract for a public project, as defined in subdivision (c) of Section 22002, involving an expenditure of fifteen thousand dollars ($15,000) or more, to the lowest responsible bidder who shall give security as the board requires, or else reject all bids. All bids for construction work shall be presented under sealed cover and shall be accompanied by one of the following forms of bidder's security:
(1) Cash.

(2) A cashier's check made payable to the school district.
(3) A certified check made payable to the school district.
(4) A bidder's bond executed by an admitted surety insurer, made payable to the school district.
Upon an award to the lowest bidder, the security of an unsuccessful bidder shall be returned in a reasonable period of time, but in no event shall that security be held by the school district beyond 60 days from the time the award is made.
(c) This section applies to all equipment, materials, or supplies, whether patented or otherwise, and to contracts awarded pursuant to subdivision (a) of Section 2000. This section shall not apply to professional services or advice, insurance services, or any other purchase or service otherwise exempt from this section, or to any work done by day labor or by force account pursuant to Section 20114.
(d) Commencing January 1, 1997, the Superintendent of Public Instruction shall annually adjust the dollar amounts specified in subdivision (a) to reflect the percentage change in the annual average value of the Implicit Price Deflator for State and Local Government Purchases of Goods and Services for the United States, as published by the United States Department of Commerce for the 12-month period ending in the prior fiscal year. The annual adjustments shall be rounded to the nearest one hundred dollars ($100).

School Facility Program Regulation Section 1859.106 states:

The projects will be audited to assure that the expenditures incurred by the district were made in accordance with the provisions of Education Code Section 17072.35 for new construction projects, Section 1859.120 for Joint-Use Projects, Section 1859.140 for Critically Overcrowded School projects, Section 1859.160 for Charter School projects, and Education Code Section 17074.25 and Section 1859.79.2 for modernization projects. The audit will also assure that the district complied with all site acquisition guidelines as provided in Education Code Sections 17072.13 and 17072.14 and Sections 1859.74, 1859.74.1, 1859.74.2, 1859.74.3, 1859.74.4, 1859.75 and 1859.75.1.

An adjustment in the SFP grant will be made for the following:
(a) The difference in the value of the site, relocation costs, DTSC fees, and hazardous waste/materials removal costs that were used to determine the New Construction Additional Grant and the actual amount paid by the district for the site, relocation costs, DTSC fees, and hazardous waste/materials removal costs. For applications received on or after January 1, 2004, the adjustment may be made regardless of whether the hazardous waste/materials removal costs were requested on the application for funding.
(b) For 50 percent of any insurance proceeds collectable by the district for displaced facilities and 50 percent of the net proceeds available from the disposition of displaced facilities pursuant to Section 1859.82(a) or (b).
(c) For any project that received funding pursuant to 1859.71.4(c) or 1859.78.1(b), 50 percent of one-fourth of one percent of the difference between the original Total Projected Bond Apportionment and the newly calculated amount. (d) Any adjustments made pursuant to this Section will be made only if sufficient bond authority is available for the adjustment. If an Unfunded List has been created by the Board, then any adjustments made pursuant to this Section will be placed on the Unfunded List.

When the OPSC receives the final expenditure report from the district on Form SAB 50-06, an audit of the expenditures by the OPSC shall commence within two years of the report. If the district is not notified by the OPSC within the two-year period that an audit will be made, there will be no audit of the project by the OPSC and the expenditures reported by the district shall be deemed appropriate. If the district has been notified that an audit of the expenditures will be made by the OPSC, the OPSC shall complete the audit within six months of the notification, unless additional information requested from the district has not been received.

Districts shall be required to maintain all appropriate records that support all district certifications and

expenditures for all costs associated with SFP, Charter School, and Joint-Use projects for a period of not less than four years from the date the notice of completion is filed for the project in order to allow other agencies, including, without limitation, the Bureau of State Audits and the State Controller to perform their audit responsibilities.

The district is responsible to substantiate expenditures from the Joint-Use Partner(s) financial contribution pursuant to Section 1859.127 and from other local sources.

Should the OPSC conduct an audit of the district certifications or the expenditures for the project and make a finding that some or all of the expenditures were not made in accordance with the provisions of Education Code Section 17072.35 for new construction projects, Section 1859.120 for Joint-Use Projects, Section 1859.140 for Critically Overcrowded School projects, Section 1859.160 for Charter School projects, Education Code Section 17074.25 and Section 1859.79.2 for modernization projects, and Education Code Sections 17072.13 and 17072.14 for projects with additional costs imposed by the DTSC, the OPSC shall recommend to the Board that the apportionment be adjusted based on the audit findings.

Should the CDE make a finding that a project did not meet the standards that were adopted by the CDE pursuant to Education Code Section 17251 (b) and (c) when the district had self-certified that the project met those standards pursuant to Education Code Section 17070.50 (b), the Board may request that the CDE make a recommendation that the apportionment for the project be adjusted based on the CDE finding. Any adjustment in the apportionment shall be based on the percentage of space in the project that the CDE determined did not meet those standards.

If title to special education program facilities is transferred between a school district and a county office of education pursuant to Education Code Sections 17071.75(b)(2) and (f), the receiving School District shall remit payment to the State within 60 days or up to five years, pursuant to an approved repayment schedule, as requested by the School District. If a repayment schedule is requested, it shall be in equal annual installments and shall include interest at the same rate as that earned on the State's Pooled Money Investment Account on the date a repayment schedule is approved by the Board. The repayment amount shall be determined by prorating the Financial Hardship assistance received on the initial Apportionment for the transferred facilities, including site acquisition costs apportioned for any land transferred, by the percentage of building area being transferred divided by the total amount of building area approved on the initial Application containing the transfer of facilities, if all of the following conditions are met:
(a) The transferred facilities were constructed with State funds under Chapter 12.5.
(b) Transfer of the facilities took place within ten years of initial occupancy.
(c) The School District that initially acquired or constructed the transferred facilities had approved Financial Hardship status at the time of Apportionment of the project.
(d) The School District receiving the facility did not have approved Financial Hardship status at either the time of the title transfer or the time that the adjustment request is submitted to the OPSC.

RECEIVED
APR 02 2010
WR&R

ATTACHMENT B

7845426

FILED
ALAMEDA COUNTY
MAR 26 2010
CLERK OF THE SUPERIOR COURT
By Vicki Daybell VD

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF ALAMEDA

NORTHERN CALIFORNIA CARPENTERS REGIONAL COUNCIL, ROBERT KLEIN, and TODD WILLIAMS Petitioners and Plaintiffs, v. LIVERMORE VALLEY JOINT UNIFIED SCHOOL DISTRICT, BOARD OF EDUCATION OF LIVERMORE VALLEY JOINT UNIFIED SCHOOL DISTRICT, DUBLIN UNIFIED SCHOOL DISTRICT, and BOARD OF TRUSTEES OF DUBLIN UNIFIED SCHOOL DISTRICT Respondents and Defendants. BRUNS BELMONT CONSTRUCTION, INC. Real Party in Interest.	Case No. RG 09-469630 **~~[Proposed]~~ ORDER ON PETITION FOR WRIT OF MANDATE AND COMPLAINT FOR DECLARATORY RELIEF**

The petition for writ of mandate and request for declaratory relief came regularly for hearing on March 12, 2010. Petitioners and plaintiffs appeared by and through their counsel, Roberta D. Perkins, Weinberg, Roger & Rosenfeld. Respondents and defendants appeared by and through their counsel, Anne Collins, Thurbon and McHaney. There was no appearance by real party in interest Bruns Belmont.

Upon consideration of the evidence presented in support of the writ, the briefs submitted by the parties and the oral argument of counsel, it is hereby ordered that the petition and request for

WEINBERG, ROGER & ROSENFELD
A Professional Corporation
1001 Marina Village Parkway
Suite 200
Alameda, CA 94501-1091
510.337.1001

declaratory relief is granted.

The contracting practices employed by respondent Livermore Valley Joint Unified School District ("Livermore") for the construction of modular school buildings on permanent foundations do not comply with the provisions of the Public Contract Code. The modular school buildings at issue are not equipment, materials, supplies, or services; they each constitute a construction project.

Livermore's practice of soliciting bids for a single construction project with the option of renewing the accepted low bid for use on separate and discrete construction projects is inconsistent with and violates the competitive bidding requirements of Public Contract Code sections 20106 and 20111, and is beyond the discretion granted to a school district under Education Code section 35160.

~~For the same reasons, the option of allowing other school districts, campuses of the State University system, the University of California system, and the Office of Superintendents of Schools and Community Colleges within the State of California to purchase modular buildings under the Livermore contract, i.e., to "piggy back" onto Livermore's contract for a single project violates the competitive bidding requirements of the Public Contract Code and this practice must cease.~~

The Dublin Unified School District's ("Dublin") use of an additive and deductive bidding process, while appropriate for a single construction project, cannot be used for the purposes of awarding multiple, separate and discrete construction projects to a single bidder without competitively bidding each and every subsequent project.

Dublin's failure to require a separate payment bond for each project subsequently awarded to real party in interest Bruns Belmont was a violation of Civil Code section 3247.

For the foregoing reasons and good cause appearing therefore, the writ and declaratory relief requested by petitioners is hereby granted. The modular building contracting practices employed by both Livermore and Dublin violate the competitive bidding requirements of the Public Contract Code. Livermore and Dublin are hereby ordered to refrain from employing these bidding practices on all future construction projects, to competitively bid all future contracts for the

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510 337 1001

acquisition, construction, and installation of prefabricated modular buildings on any campus within the districts, and to require each contractor to whom a contract is awarded to post the appropriate payment bond as required by Civil Code section 3247.

IT IS SO ORDERED.

Dated: 3/26/10

FRANK ROESCH
Judge of the Superior Court

120606/564696

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September 16, 2010

Via Facsimile @ 916-376-1641 & US Mail

Mr. Joel Ryan
Office of Public School Construction
707 3rd Street
West Sacramento, CA 95605

RE: Livermore Valley Joint Unified School District
Projects: 2006 – Jackson Avenue Elementary School Project
2007 – Granada High School Project
2008 – Livermore High School Project

Dear Mr. Ryan:

In or about April 2004, the Livermore Valley Joint Unified School District issued a call for bids for the replacement of Seven Steelguard Buildings at the Leo Croce Elementary School site. The bid invitation was published to provide all qualified bidders with an opportunity to participate in the bid process for this contract. The bid specifications specifically provided that the contract could be renewed on an annual basis in accordance with the provisions of California Education Code § 17596 and § 35160.

The successful low bidder was Bruns Belmont Construction, Inc. As a result, on June 1, 2004, the Governing Board adopted Resolution No. 120-03/04 awarding the contract to Bruns Belmont Construction, Inc., in the amount of $1,174,000.00. Unit pricing/breakdowns were included as part of the bid submitted by Bruns Belmont for various sized structures of pre-fabricated and pre-engineered buildings (i.e., Saramark Bldgs). Attached hereto as Exhibit 1 is a copy of the Resolution, General Construction Contract and excerpted documents from Bruns Belmont's bid.

Subsequent to the completion of the Leo Croce Elementary School site project, the Bruns Belmont Construction Contract was amended on a few occasions to provide for an extension on the term of the Contract for work to be done, services to be performed and for equipment or apparatus to be furnished, sold, built, or installed for the District by a series of actions on the

part of the Governing Board consistent with the provisions of the Bid Specifications and Education Code §17596 and §35160. Ultimately, the Bruns Belmont Construction contract was amended and thus extended through June 2008. Attached hereto as Exhibit 2 is a copy of the initial Addendum and last Addendum extending the term of the Contract.

In or about March 2007, the Livermore Valley Joint Unified School District issued a call for bids for the furnishing of all tools, equipment, apparatus, facilities, labor, transportation and material necessary to complete the Jackson Elementary School Site Modernization Project. The District used a prequalification process which was published to provide all qualified bidders with an opportunity to participate in the bid process for District contracts anticipated to be in excess of One Million Dollars. Attached hereto as Exhibit 3 is a copy of the published Notice to Bidders and Board Resolution 026-06/07 Calling for Bids.

The successful low bidder was Pencon, Inc. Attached hereto as Exhibit 4 is a copy of the Bid Summary. As a result, on May 22, 2007, the Governing Board adopted Resolution No. 065-06/07 awarding the contract to Pencon, Inc., in the amount of $6,881,700.00. Attached hereto as Exhibit 5 is a copy of the Resolution. On or about May 23, 2007, the District executed a contract in the amount of $6,881,700.00 with Pencon, Inc. Attached hereto as Exhibit 6 is a copy of the General Construction Contract.

In addition to awarding to Pencon, Inc., the above-identified contract and in reliance on the previously competitively bid Leo Croce Elementary School site contract and Education Code §17596 and §35160, the District also issued Purchase Order No. 702438 to Bruns Belmont Construction, Inc., for the purchase and installation of three Saramark Buildings for the Jackson Avenue Modernization Project. Attached hereto as Exhibit 7 is a copy of P.O. 702438.

The District estimated that the total costs for the Jackson Avenue Elementary School Modernization Project would be approximately $11,440,840.00, with the State's contribution being approximately $2,609,500.00 and the remainder of the funds coming from the District. Attached hereto as Exhibit 8 is a copy of the initial Modernization Project Budget. Since the total cost of the project and the District's contribution of local funds far exceeded the state monies on this project arguably, no state monies were used in connection with the purchase made under P.O. 702438.

In or about June 2007, the Livermore Valley Joint Unified School District issued a call for bids for furnishing all tools, equipment, apparatus, facilities, labor, transportation and material necessary to complete the Granada High School, Increment 1, Site Work project. The District also used the prequalification process which was published to provide all qualified bidders with an opportunity to participate in the bid process for District contracts anticipated to be in excess of One Million Dollars. Attached hereto as Exhibit 9 is a copy of Board Resolution No. 072-06/07 Calling for Bids for Granada High School Increment 1, Site Work. (See also Exhibit 3).

The successful low bidder was Bruns Belmont Construction, Inc. Attached hereto as Exhibit 10 is a copy of the Bid Summary. On May 22, 2007, the Governing Board adopted Resolution No. 068-06/07 authorizing the execution of contracts during the months of July and August by the Superintendent and/or designee. Attached hereto as Exhibit 11 is a copy of Resolution

No. 068-06/07. As a result, on or about July 3, 2007, the District awarded a contract in the amount of $1,760,000.00 to Bruns Belmont Construction, Inc. Attached hereto as Exhibit 12 is a copy of the General Construction Contract.
In addition to awarding to Bruns Belmont Construction, Inc., the above-identified contract and in reliance on the previously competitively bid Leo Croce Elementary School site contract and Education Code §17596 and §35160, the District also issued Purchase Order No. 705749 to Bruns Belmont Construction, Inc., for the purchase and installation of eight Saramark Buildings for the Granada High School Project. Attached hereto as Exhibit 13 is a copy of P.O. 705749.

The District estimated that the total costs for the Granada High School Science Project would be approximately $9,284,000, with the State's contribution being approximately $4,642,000 and the remainder of the funds coming from the District. Attached hereto as Exhibit 14 is a copy of the initial Project Budget.

In or about December 2007, the Livermore Valley Joint Unified School District issued a call for bids for furnishing all tools, equipment, apparatus, facilities, labor, transportation and material necessary to complete the Livermore High School Science Buildings project. The District also used the prequalification process which was published to provide all qualified bidders with an opportunity to participate in the bid process for District contracts anticipated to be in excess of One Million Dollars. Attached hereto as Exhibit 15 is a copy of Board Resolution No. 015-06/07 Calling for Bids for the Livermore High School Science Buildings. (See also Exhibit 3).

The successful low bidder was Bruns Belmont Construction, Inc. As a result on February 5, 2008, the Governing Board adopted Resolution No. 024-07/08 awarding a contract in the amount of $1,896,950.00 to Bruns Belmont Construction, Inc. Attached hereto as Exhibit 16 is a copy of Resolution No. 024-07/08. On February 6, 2008, the District entered into a contract with Bruns Belmont Construction, Inc., in the amount of $1,896,950.00. Attached hereto as Exhibit 17 is a copy of the General Construction Contract.

In addition to awarding to Bruns Belmont Construction, Inc., the above-identified contract and in reliance on the previously competitively bid Leo Croce Elementary School site contract and Education Code §17596 and §35160, the District also issued Purchase Order No. 704242 to Bruns Belmont Construction, Inc., for the purchase and installation of six Saramark Buildings for the Livermore High School Science Project. Attached hereto as Exhibit 18 is a copy of P.O. 704242.

The District estimated that the total costs for the Livermore High School Science Project would be approximately $9,761,513, with the State's contribution being approximately $7 million dollars and the remainder of the funds coming from the District. Attached hereto as Exhibit 19 is a copy of the initial Project Budget.

As you may know, the California Supreme Court has emphasized the necessity of a pragmatic approach in interpreting competitive bid statutes, placing the public interest above the interests of the bidders: 'As one leading treatise explains: "The provisions of statutes, charters and ordinances requiring competitive bidding in the letting of municipal contracts are for the purpose of inviting competition, to guard against favoritism, improvidence, extravagance, fraud and corruption, and to secure the best work or supplies at the lowest price practicable, and they are

enacted for the benefit of property holders and taxpayers, and not for the benefit or enrichment of bidders, and should be so construed and administered as to accomplish such purpose fairly and reasonably with sole reference to the public interest.[1]

We these principles in mind, the District contends that its reliance on Education Code §17596 and §35160 in awarding subsequent contracts based upon the initial competitively bid Leo Croce Elementary School Site Project, is in substantial compliance with the law requiring that contracts be competitive bid and further that its actions actually achieved the purpose of the competitive bid statutes in the first instance namely, to guard against fraud or corruption and to secure the best work at the lowest prices possible. Although the District understands the Court's March 26, 2010 Order[2] , the District does respectfully disagree with the findings of the Court and contends that based on the provisions of Education Code §17569 and §35160, the District's conduct as described above was legally permissible and in conformance with the law governing this matter. However, notwithstanding this fact, the District understands the Court's position in this matter and has made the business decision to cease from continuing conducting business in this manner so as to avoid any question about compliance with the competitive bid statutes in the future.

The District further contends that the attached Exhibits evidence that the District took the above-identified actions based upon a good-faith belief that such actions were in compliance with state law and there is no factual support to find that the District has ever acted intentionally to avoid the application of the competitive bid statutes. Again, the District submits that for all practical purposes, including the OPSC/SAB funding, the purchase orders at issue are in fact based on a competitive bid process and the District urges OPSC/SAB to apply a "pragmatic approach" in analyzing the above-identified facts and find that the District is in compliance with state law.

Furthermore, given the significant passage of time since these projects have closed out, there is a presumption in the law in favor of a finding that the District's expenditures are deemed to be appropriate[3]. The District respectfully requests that OPSC/SAB extend to the District the benefit of this presumption, particularly in light of the fiscal crisis facing school districts, from which the Livermore Valley Joint Unified School District is not immune. Specifically, the District respectfully requests that OPSC/SAB find, based upon the foregoing facts, that all expenditures of state funds made on the above-identified projects were made by the District in compliance with state law and that no further action needs to be taken.

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[1] (10 McQuillin, Municipal Corporations (3d rev. ed. 1990) § 29.29, p. 375, fns. omitted.) Thus, [laws] requiring competitive bidding are not to be given such a construction as to defeat the object of insuring economy and excluding favoritism and corruption. [Citations.]' (9 Cal.4th at p. 173.)"*G (hilotti, supra,* at p. 909.) (*Judson Pacific-Murphy Corp*.v. *Durkee* (1956) 144 Cal.App.2d 377, 383 . . . .

[2] Alameda Superior Court Case No. RG09-469630

[3] 2 CCR 1859.106

Once you have an opportunity to review the information set forth herein and as attached hereto, please contact me to discuss this matter further.

Best regards,

JACQUELINE S. McHANEY

JSM:kd
Enclosures