

OFFICE OF PUBLIC SCHOOL CONSTRUCTION STAKEHOLDER MEETING
August 2, 2022

PROPOSED REGULATORY AMENDMENTS TO ALLOCATE MONIES
APPROPRIATED FROM NON-BOND SOURCES

PURPOSE

To discuss proposed regulatory amendments to amend the fund release deadlines for funding approvals to allocate funds made available outside of general obligation bond fund sales for eligible School Facility Program (SFP) new construction and modernization projects.

AUTHORITY

Section 129 of Assembly Bill 181 states the following:

- (a) For the 2022–23 fiscal year, one billion three hundred million dollars (\$1,300,000,000) is hereby appropriated from the General Fund in the 2021–22 fiscal year to the State Allocation Board for new construction and modernization projects under the Leroy F. Greene School Facilities Act of 1998, pursuant to Chapter 12.5 (commencing with Section 17070.10) of Part 10 of Division 1 of Title 1 of the Education Code.
- (b) The funds appropriated in subdivision (a) and the funds intended to be appropriated in subdivision (c) shall be available for encumbrance or expenditure by the State Allocation Board until December 31, 2025.
- (c) It is the intent of the Legislature to appropriate an additional two billion sixty million five hundred thousand dollars (\$2,060,500,000) from the General Fund in the 2023–24 fiscal year and an additional eight hundred seventy-five million dollars (\$875,000,000) from the General Fund in the 2024–25 fiscal year to the State Allocation Board to fund projects for the same purposes as described in subdivision (a).
- (d) It is the intent of the Legislature for the Office of Public School Construction to process grant applications for apportionment by the State Allocation Board at its current processing capabilities.

See Attachment A for additional authority.

BACKGROUND

As part of the Budget Act for the 2022-2023 fiscal year, \$1.3 billion in one-time General Funds in 2022-2023, \$2.1 billion in one-time General Funds in 2023-2024, and \$875 million in one-time General Funds in 2024-2025 were provided to the State Allocation Board (Board) to support new construction and modernization projects through the SFP. The funds appropriated in 2022-2023 are available for use until December 31, 2025. The first installment of funds is available now for direct Apportionments to school district projects without the need to wait for a future bond sale. Due to this availability, unfunded approvals are no longer necessary for projects that will receive approval using the General Fund proceeds as opposed to bond funds. This would result in a streamlined funding pathway for districts.

In this meeting, OPSC presents proposed regulatory amendments to move to a single approval Apportionment process (direct Apportionment) for any proceeds made available for new construction and modernization projects outside of the voter-approved bond sale process. These proposed amendments contain language to ensure that projects funded through the direct Apportionment process would still be subject to provisions requiring timely use of funds towards the completion of facility construction projects.

The School Facility Program has historically used voter-authorized General Obligation Bonds as the only source of funding for new construction and modernization projects under the SFP. The current method approved in SFP Regulations that is used to allocate bond funds typically begins with a project receiving an unfunded approval from the Board. The approved project is placed on the Unfunded List (Lack of AB 55 Loans) which then enables school districts to participate in a certification process to request cash for the project from a future bond sale. If cash is provided to the SFP, the Board can then make an Apportionment to the projects that participated in the certification process. This is known as the Priority Funding process. There are two Priority Funding opportunities per year that correspond to bond sales that also occur twice per year—one in the spring, and one in the fall. Under the Priority Funding process, applicants receive their funds anywhere from three to nine months after receiving the initial unfunded approval from the Board, depending on when they receive their initial unfunded approval in relation to the next available Priority Funding filing round and subsequent bond sale.

STAFF ANALYSIS/STATEMENTS

Current Priority Funding Process

The current process for allocating funds through the Priority Funding model occurs through two main steps. First, funding applications receive an unfunded approval by the Board, and the projects are placed on the Unfunded List (Lack of AB 55 Loans). Next, school districts participate in the Priority Funding process in order to become eligible to receive an Apportionment once proceeds become available in a subsequent bond sale.

The Priority Funding process was created in response to the fiscal crisis in 2008 when it became necessary to wait for bond sale proceeds before Apportionments were approved for funding applications. Prior to this process, Apportionments were made to projects and districts had 18 months to request the cash fund release. If bond sale proceeds were not available, the program could borrow the cash from the Pooled Money Investment Account. With the fiscal crisis, this tool became unavailable and cash resources for bond sales were limited. The Board created the Priorities in School Construction Funding Subcommittee to determine the best way to prioritize providing cash to school district projects, while also making certain that proceeds from bonds that had been sold and were incurring debt service charges would quickly be put to use to stimulate the economy. The Priority Funding process that was developed allowed projects that receive an unfunded approval to be placed on the Unfunded List (Lack of AB 55 Loans) and to receive an Apportionment provided the district could certify they are able to submit a valid *Fund Release Authorization* (Form SAB 50-05)

within 90 days of receiving an Apportionment. The Priority Funding process helps to ensure that available cash for construction projects can be used quickly by districts.

Proposed Direct Apportionment Process

Because the proceeds made available as a result of the current Budget Act are not derived from a bond sale, Apportionments from these funds could be provided at each Board meeting as opposed to twice a year after Priority Funding rounds close.

While used infrequently and only for projects that have submitted a *School District Appeal Request*, existing SFP Regulation Section 1859.90 currently allows school districts up to 18 months after Apportionment to submit a valid *Fund Release Authorization* (Form SAB 50-05). Projects approved using the provisions of this regulation do not participate in the Priority Funding process.

In order to more efficiently distribute the funds made available through the General Fund process with the intent of prioritizing projects that would be able to quickly use funds (as was achieved through the Priority Funding process), OPSC is proposing amendments to SFP Regulation Section 1859.90 as shown in Attachment B1. The intent of these proposed amendments is to allow school districts to receive a direct Apportionment outside the Priority Funding process, while changing the requirement from 18 months to 180 calendar days to submit the Grant Agreement and valid *Fund Release Authorization* (Form SAB 50-05), or 365 calendar days for projects receiving financial hardship assistance. As is the case under current regulations, districts that do not submit the Grant Agreement and *Fund Release Authorization* (Form SAB 50-05) within the specified timeframe would be rescinded without further Board action.

Deadlines to submit Grant Agreement and valid *Fund Release Authorization* (Form SAB 50-05)

For projects not receiving financial hardship assistance	180 calendar days
For projects receiving financial hardship assistance	365 calendar days

Under the proposed amendments, School districts would undergo the same application review process to prepare requests for presentation to the Board. However, upon Board approval, school districts would immediately receive an Apportionment for their projects as opposed to an unfunded approval; no intermediate conversion step or Priority Funding filing round would be required. Funds would be released as soon as a school district signs and submits a valid Grant Agreement and *Fund Release Authorization* (Form SAB 50-05) for the project.

Projects Receiving Bond Sale Proceeds vs. Projects Receiving General Fund Proceeds

For a short time period, the Board will have both bond authority and General Fund authority to provide approvals to projects. To discern the authority to be provided for a given project, the following processing considerations are proposed:

- 1. Priority Funding Process Remains for Bond Funded Projects, Maintain Date Order Processing**

Date order processing would remain in place for standard new construction and modernization projects. Projects currently on the Workload List within available bond authority, will follow the regulations for Priority Funding apportionments based on bond sales. Staff is already processing these applications and the majority will be placed on the Unfunded List (Lack of AB 55 Loans) before the proposed regulatory amendments could take effect. Maintaining the Priority Funding process for these projects is the most efficient way to make use of the cash that will be made available from future bond sales. Staff acknowledges that while the processing of the applications maintains date order processing, there may be a few months difference where General Fund projects receive cash before Bond Fund projects.

2. Direct Apportionment Process for Health and Safety Projects

Due to the time sensitive and urgent nature of health and safety projects, rather than using bond authority in the next few months, these projects would be processed by staff and presented to the Board once the proposed regulations become effective. This would enable these projects to receive a direct Apportionment from General Funds so districts do not need to wait for the Priority Funding process tied to a bond sale to mitigate imminent health and safety concerns.

3. Direct Apportionment Process for General Fund Projects, Maintain Date Order Processing

The General Fund proceeds allow Staff to move projects that were previously submitted and placed on the *Applications Received Beyond Bond Authority* List to the Workload List. These projects would use General Funds, not bond proceeds. If the proposed regulations are approved, Staff would be able to present the eligible projects to the Board for Apportionment.

Impact of Changing the Fund Release Timelines

As OPSC is currently processing projects several years after the original submission date, many of these projects are already under contract or complete. As of June 30, 2022, 89 percent of the funding requests OPSC has received represent projects that are under contract or complete. Thus, the 180 days to submit the *Fund Release Authorization* (Form SAB 50-05) should not present a challenge for districts that are accustomed to Priority Funding timelines. If the proposed amendments move forward, districts will have had notice of the 180-day requirement and, given the length of time between application submittal and processing, districts would still have a similar period of time to effectively plan to secure contracts to meet fund release requirements. While this timeline would continue to provide funds in an expedited manner for the majority of projects that are ready to request a release of funds, it would also reduce the risk of dedicating cash resources to projects that are not ready to proceed and need more than 90 days to submit a fund release request.

Financial Hardship Projects

In the case of projects receiving financial hardship assistance, the proposed timeline for school districts to submit a Grant Agreement and a valid Fund Release Authorization (Form SAB 50-05) is 365 days. As of June 30, 2022, over 11 percent of the funding requests received by OPSC request consideration for financial hardship assistance. This extended submission period is intended to provide additional flexibility

to financial hardship school districts who typically do not have the ability to proceed with facilities projects absent a commitment of State funding through an Apportionment. Prior to receiving funds, financial hardship school districts may encounter additional difficulties securing the contracts required to certify and complete a fund release form as compared to school districts who have the means to front-fund the project without the State's assistance. The 365-day recommendation is intended to address the additional time resources required to successfully initiate the project, award contracts, and submit a valid fund release.

Use of Returned Funds

The SFP intermittently receives returned proceeds for various reasons such as projects that do not move forward or return of funds from ineligible expenditures found during closeout audits. Thus, it would be possible for proceeds originally provided to projects from general obligation bond funds to return to the new construction or modernization funds.

As part of the proposed direct Apportionment regulations, Staff recommends amending SFP regulation Section 1859.90 to provide that any funds that return to the program would be considered as available funding outside of a bond sale which OPSC would then allocate to other eligible projects. The allocation would follow the rules and requirements indicated under the proposed direct Apportionment process which provides the flexibility needed to reissue the funds equitably and efficiently.

Comparative Timeline of Apportionment Process

The proposed regulations for direct Apportionment would not eliminate the Priority Funding process as it exists now. Projects approved within voter-approved bond authority would still be subject to all existing laws and regulations governing the Priority Finding process.

Once approved, OPSC could provide funding through the direct Apportionment process as early as the October 2022 SAB.

The chart on Attachment C illustrates an example timeline achievable through the proposed direct Apportionment process and compares it to the existing Priority Funding process in place for general obligation bond proceeds.

The chart assumes that the projects subject to direct Apportionment in this example receive initial Board approval at the October 2022 SAB meeting. In this example, all projects that receive an Unfunded Approval under the Priority Funding model would be eligible to participate in the Fall 2022 Priority Funding filing round.

CONCLUSION

For proceeds made available to the program outside of a voter-approved bond source including the General Fund proceeds made available July 1, 2022, staff proposes using an amended direct Apportionment model. Direct Apportionment provides a prudent, equitable, and streamlined way to allow the Board to make use of all possible proceeds available to the SFP. With the proposed changes to the regulations, the

direct Apportionment model would maintain the components of the Priority Funding process that prioritized projects that can quickly make use of the cash provided.

If this model is adopted by the Board, the fund release process from currently available proceeds could begin as early as October 2022 pending approval of the corresponding regulatory amendments by the Office of Administrative Law. The proposed regulations for direct Apportionments would disburse funds to school districts efficiently without removing the Priority Funding process which would remain in effect should new general obligation bond proceeds become available in the future.

The Priority Funding process was meant to expedite cash to projects that are ready to make use of bond funds; in the context of funds received outside of a bond, the proposed direct Apportionment process preserves this intent and provides the mechanism necessary to continue to accomplish the goal of the SFP together with voter-approved bond authority.

DISCUSSION

OPSC is asking for stakeholder feedback on OPSC's proposed amendments.

CLOSING REMARKS/NEXT STEPS

OPSC will review all feedback and form an updated proposal for consideration by the Board. Once updated OPSC will post the proposed language in the agenda for the August 15, 2022 SAB meeting; we will notify all interested parties through our email notification system. If you would like to subscribe to our email list, please visit this link:

https://public.govdelivery.com/accounts/CADGS/subscriber/topics?qsp=CADGS_4

Any stakeholder wishing to provide feedback should email OPSCCommunications@dgs.ca.gov by 12:00pm on August 4, 2022.

ATTACHMENT A

AUTHORITY

Education Code (EC) Section 17070.35 states in part:

(a) In addition to all other powers and duties as are granted to the board by this chapter, other statutes, or the California Constitution, the board shall do all of the following:

(1) Adopt rules and regulations, pursuant to the rulemaking provisions of the Administrative Procedure Act, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, for the administration of this chapter...

EC Section 17070.41 states:

(a) A fund is hereby established in the State Treasury, to be known as the 2016 State School Facilities Fund. All money in the fund, including any money deposited in that fund from any source whatsoever, and notwithstanding Section 13340 of the Government Code, is hereby continuously appropriated without regard to fiscal years for expenditure pursuant to this chapter.

(b) The board may apportion funds to school districts for the purposes of this chapter, as it read on January 1, 2015, from funds transferred to the 2016 State School Facilities Fund from any source.

(c) The board may make apportionments in amounts not exceeding those funds on deposit in the 2016 State School Facilities Fund, and any amount of bonds authorized by the committee, but not yet sold by the Treasurer.

(d) The board may make disbursements pursuant to any apportionment made from any funds in the 2016 State School Facilities Fund, irrespective of whether there exists at the time of the disbursement an amount in the 2016 State School Facilities Fund sufficient to permit payment in full of all apportionments previously made. However, no disbursement shall be made from any funds required by law to be transferred to the General Fund.

EC Section 17076.10 states:

(a) A school district that receives any funds pursuant to this chapter shall submit a summary report of expenditure of state funds and of school district matching funds annually until all state funds and school 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 school 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 not made substantial progress towards increasing its pupil capacity or modernizing its facilities within 18 months of receiving 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, the 2004 State School Facilities Fund, the 2006 State School Facilities Fund, or the 2016 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

ATTACHMENT A

Controller shall deduct an amount equal to the amount to be repaid 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, the 2004 State School Facilities Fund, the 2006 State School Facilities Fund, or the 2016 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 20 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 receives 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.

Government Code Section 15503 states: "Whenever the board is required to make allocations or apportionments under this part, it shall prescribe rules and regulations for the administration of, and not inconsistent with, the act making the appropriation of funds to be allocated or apportioned. The board shall require the procedure, forms, and the submission of any information it may deem necessary or appropriate. Unless otherwise provided in the appropriation act, the board may require that applications for allocations or apportionments be submitted to it for approval."

School Facility Program (SFP) Regulation Section 1859.2 Definitions states in part:

...

"Applications Received Beyond Bond Authority List" means an informational list of applications submitted to the Office of Public School Construction (OPSC) and presented to the Board. Funding applications placed on this list contain the preliminary grant amounts requested by a district. The OPSC has not determined that the Approved Application(s) are Ready for Apportionment.

...

"Apportionment" shall have the meaning set forth in Education Code Section 17070.15(a).

...

"Unfunded List (Lack of AB 55 Loans)" means an information list of unfunded projects that was created due to the State's inability to provide interim financing from the Pooled Money Investment Account (AB 55 loans) to fund school construction projects as declared in the Department of Finance Budget Letter #33 issued on December 18, 2008.

ATTACHMENT B1

Section 1859.90. Fund Release Process.

(a) With the exception of an apportionment made pursuant to Sections 1859.81.1(e) or 1859.81.2, and apportionments provided through the Priority Funding Process and subject to 1859.90.2 or of an Inactive Apportionment subject to Section 1859.96, the OPSC will release State funds that the Board has apportioned to the district after submittal, by the district, of the Form SAB 50-05 and a Grant Agreement, pursuant to Section 1859.90.4. ~~subject to the availability of financing provided by the Pooled Money Investment Board for bond-funded projects. With the exception of an apportionment made for a Type II Joint-Use Project, not part of a qualifying SFP Modernization project, pursuant to Article 12 of these Regulations,~~

(b) For projects receiving cash proceeds from sources outside of a general obligation bond such as a General Fund appropriation, a-A district must submit the Form SAB 50-05 and Grant Agreement, within 48 months 180 calendar days of the Apportionment of the SFP grant for the project or within 365 calendar days for Apportionments that include financial hardship assistance. If the district does not submit the Form SAB 50-05 and Grant Agreement within the above specified time, the entire New Construction Adjusted Grant, Modernization Adjusted Grant ~~or Type I or II~~, part of a qualifying SFP Modernization project, or Joint-Use Project apportionment shall be rescinded without further Board action, and the pupils housed in the project, if applicable, will be added back to the district's baseline eligibility. The district may refile a new application for the project subject to district eligibility and ~~priority funding~~ available State funds at the time of resubmittal.

(c) If cash proceeds are returned to the program from bond funded projects, the returned funds may also be apportioned to projects and subject to the fund release requirements in subdivision (b).

(d) If the Apportionment was made for a Type II Joint-Use Project, not part of a qualifying SFP Modernization project, pursuant to Article 12 of these Regulations, the district must submit Form SAB 50-05 and a Grant Agreement within 18 months of the date the plans and specifications for the Joint-Use Project that have been approved by the DSA and the CDE are submitted to the OPSC or the Apportionment shall be rescinded without further Board action.

(e) Subject to the availability of financing provided by the Pooled Money Investment Board for bond-funded projects, the OPSC will release State funds that have been apportioned by the Board pursuant to Section 1859.81.1(e) to the district within 30 calendar days of the following, whichever occurs last: an Apportionment or upon submittal by the district of a Grant Agreement pursuant to Section 1859.90.4.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17072.12, 17072.30, 17074.15, 17076.10, 17077.40, 17077.42 and 17077.45, Education Code.

ATTACHMENT B2

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Office of Public School Construction Application Number: 50XX/XXXXX-XX-XXX

GENERAL INFORMATION

Grantee Name: _____

School Name: _____

Grant Amount: \$ _____ of which \$ _____ is Financial Hardship Assistance.

Authority: _____

SFP Program Funding Source: **New Construction**

Future Priority Funding Rounds: _____

PROJECT DESCRIPTION

Type of Work: **New Construction**

New School or Addition to an Existing Site: _____

Number of Classrooms: _____

Financial Hardship Approval Date: _____

Financial Hardship Status is valid until: _____

Agreement includes Grants for: _____ (Site Acquisition; Department of Toxic Substances Control fees and hazardous waste removal; etc.)

Agreement includes Grants for: _____ (Site Development, if appropriate)

Other Facilities being newly constructed, modernized, replaced, or rehabilitated: _____

Square Footage being replaced: **Not Applicable** Toilet Area sq. ft.

Not Applicable Other Area sq. ft. (all non-toilet area)

(include for Facility Hardship replacement or Seismic Mitigation Program replacement projects)
For purposes of Facility Hardship and Seismic Mitigation Program projects, shower/locker area is considered "toilet area."

Approved rehabilitation cost estimate: **Not Applicable**

(include for Facility Hardship rehabilitation or Seismic Mitigation Program rehabilitation projects)

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This project scope and resulting funding determination relied on the following documentation and state agency approvals:

- The Funding Application (Form SAB 50-04), executed by the District Representative on [REDACTED]
- **Not Applicable** The Application for Charter School Preliminary Apportionment (Form SAB 50-09), executed by the District Representative on XXXXX
- **Not Applicable** The Application for Career Technical Education Facilities Funding (Form SAB 50-10), executed by the District Representative on XXXXX
- Site Approval letter from the California Department of Education dated [REDACTED]
- Plan Approval letter from the California Department of Education dated [REDACTED]
- Division of the State Architect Approval letter(s) dated [REDACTED] for DSA Application Number(s) [REDACTED]
- **Not Applicable** Financial Hardship Approval Letter from the Office of Public School Construction dated XXXXX
- **Not Applicable** Bridge Financing Approval Letter from the Office of Public School Construction dated XXXXX
- **Not Applicable** The industry specialist report prepared by (insert name of specialist or firm), dated XXXXX that details the minimum work necessary to mitigate the (health and safety or seismic) threat in this (rehabilitation or replacement) application
- **Not Applicable** Written concurrence dated XXXX from (enter name of governmental agency) agreeing with the (health and safety or seismic) threat and the minimum work to mitigate the threat in the industry specialist report

A copy of the documentation listed here is available as part of the project file maintained by OPSC, and is also retained by the District for purposes of the project audit.

Grants are to be used in accordance with the provisions contained in the Leroy F. Greene School Facilities Act of 1998 (Education Code, Title 1, Division 1, Part 10, Chapter 12.5, commencing with Section 17070.10) and this Agreement.

The Grantee shall not make any change to the Project that would require a Change of Scope, without the State Allocation Board first approving the change to the Project.

ATTACHMENT B2

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Office of Public School Construction Application Number: 59XX/XXXXX-XX-XXX

TERMS AND CONDITIONS OF GRANT

A. Definitions

Terms not defined below shall have the same meaning as set forth in SFP Regulation Section 1859.2.

"Act" means the Leroy F. Greene School Facilities Act of 1998 (Education Code, Title 1, Division 1, Part 10, Chapter 12.5, commencing with Section 17070.10).

"Agreement" means a contract to do or not to do a certain thing and refers to this Grant Agreement.

"Application" means a request pursuant to the Act to receive funding for a school project.

"Apportionment" shall have the meaning set forth in Education Code Section 17070.15(a).

"Audit report" means the annual compliance reviews and fiscal reviews of the Grantee's finances, in accordance with the Guide for Annual Audits of K-12 Local Education Agencies and State Compliance Reporting.

"Board" means the State Allocation Board as established by Section 15490 of the Government Code.

"Capital Outlay," for the purposes of the Grantee using Savings, pursuant to School Facility Program Regulation Section 1859.103, means capital assets in accordance with Section G of this Agreement.

"Change of Scope" means the addition or deletion of any work that would change the approved Grant amount for the Project or require updated state agency approval(s). This includes, but is not limited to, changes to site acquisition acres, or buildings, including but not limited to classrooms, multipurpose rooms, gymnasiums, administration buildings, restrooms, and libraries/media centers, and any changes to the size of those buildings, the type of building (e.g. portable, modular, or permanent), or the location on the school site of those buildings.

"Charter School Agreements" mean a memorandum of understanding, a funding agreement, and a use agreement as established by the California School Finance Authority.

"Classroom" means a teaching station that has the same meaning as the term used in Education Code Section 17071.25(a)(1).

"Expenditure Report" means the Form SAB 50-06 *Expenditure Report* and all required supplementary documentation, including but not limited to a detailed listing of project expenditures organized by fund source and provided at an object-code-level of accounting detail, pursuant to the California School Accounting Manual, that shall include fields to identify information including, but not limited to dates, payees, warrant numbers, and the description and purpose of the expenditures as described in California Code of Regulations, Title 2, Regulation Section 1859.104.

"Financial Hardship" means State funding for all or a portion of the Grantee's matching share required by School Facility Program Regulation Section 1859.77.1 or 1859.79.

"Funding Application" means the Form SAB 50-04, *Application for Funding*, or the Form SAB 50-09, *Application for Charter School Preliminary Apportionment*, or the Form SAB 50-10, *Application for Career Technical Education Facilities Funding*, and all required supplementary documentation pursuant to the Act and California Code of Regulations, Title 2, Regulation Sections 1859.70, 1859.161 or 1859.191, as applicable.

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“Fund Release Application” means the Form SAB 50-05, *Fund Release Authorization*, and all required supplementary documentation, which includes but is not limited to this Agreement, pursuant to the Act and the Regulations.

“Grants” means all eligible program grants provided by the Board to the Grantee in this Agreement.

“Grantee” means the school district (as defined in California Code of Regulations, Title 2, Regulation Section 1859.2), charter school, or joint powers authority, as applicable, whose representative has signed this Agreement for Grants.

“Grantee Representative” means the authorized representative of a school district (as defined in California Code of Regulations, Title 2, Regulation Section 1859.2), charter school, or joint powers authority, as applicable, who signed this Agreement for Grants.

“Hazardous Material/Waste Removal Fund” shall mean the fund established pursuant to California Code of Regulations, Title 2, Regulation Section 1859.163.3(b).

“In Escrow, Governmental Entities” means the approval and signature of instrument(s) that will convey a specified school parcel or site from the public/government entity including the federal government for a determinable sum, and for a determinable date of acquisition which may be based on the Grantee’s receipt of funding from the Board.

“In Escrow, Non-Governmental Entities” means the deposit of signed instrument(s) and/or funds with instructions with a title company or escrow agent to carry out the provisions of an agreement or contract to acquire a specified school parcel or site for a determinable sum, and for a determinable date of acquisition which may be based on the Grantee’s receipt of funding from the Board.

“Ineligible Expenditure” means an expenditure of Grants not in accordance with this Agreement or the applicable laws and regulations governing the use of Grants.

“Local auditor” means an auditor hired at the Grantee’s expense who conducts annual compliance reviews and fiscal reviews of the Grantee’s finances, in accordance with the Guide for Annual Audits of K-12 Local Education Agencies and State Compliance Reporting.

“Material Inaccuracy” means a finding of falsely certified eligibility or Funding Application related information submitted by Grantees, architects, or other design professionals that allowed the Grantee an advantage in the funding process. For penalties associated with Material Inaccuracy findings, see Education Code Section 17070.51.

“Modernization” means projects that are eligible for Grants based on Education Code Title 1, Division 1, Part 10, Chapter 12.5, Articles 6 (commencing with Section 17073.10) and 7 (commencing with Section 17074.10).

“Most Vulnerable Category 2 Buildings” means the building meets the criteria outlined in Section 1859.82(a)(1)(C) and is one of the following building types:

- C1 – Concrete Moment Frame
- C1B – Reinforced Concrete Cantilever Columns with Flexible Diaphragms
- C2A - Concrete Shear Wall with Flexible Diaphragms
- C3A – Concrete Frame with Infill Masonry Shear Walls and Flexible Diaphragms
- PC1 – Precast/Tilt-up Concrete Shear Wall with Flexible Diaphragms
- PC1A – Precast/Tilt-up Concrete Shear Wall with Rigid Diaphragms
- PC2 – Precast Concrete Frame without Concrete Shear Walls and with Rigid Diaphragms
- URM – Unreinforced Masonry Bearing Wall with Flexible Diaphragms
- RM1 – Reinforced Masonry Bearing Wall with Flexible Diaphragms

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URMA – Unreinforced Masonry Bearing Wall with Rigid Diaphragms

S1B – Steel Cantilever Columns with Flexible Diaphragms

S3 – Steel Light Frame Metal Siding and/or Rod Bracing, or

M – Mixed construction containing at least one of the above structure types.

“New Construction” means projects that are eligible for Grants based on Education Code Title 1, Division 1, Part 10, Chapter 12.5, Articles 3 (commencing with Section 17071.75), 4 (commencing with Section 17072.10), and 5 (commencing with Section 17072.20).

“Occupancy” means the point at which pupils occupy a classroom as evident by district documents such as the school board’s adopted calendar, classroom attendance rosters, fire marshal approval of the classroom, etc.

“Office of Public School Construction (OPSC)” means the office within the California Department of General Services that assists the Board as necessary and administers the Act on behalf of the Director of General Services.

“Other Sources of Funds” means cash, the Grantee’s matching funds, or in-kind contributions that are required or used to complete the project beyond the Grants provided by this Agreement.

“Preliminary Funding Application” means the Form SAB 50-09, *Application for Charter School Preliminary Apportionment*, and all required supplementary documentation pursuant to the Act and the Regulations.

“Project” means the purposes for which the Grantee has applied for the Grants detailed in this Agreement.

“Regulations” means the School Facility Program regulations (California Code of Regulations, Title 2, Division 2, Chapter 3, Subchapter 4, Group 1, Subgroup 5.5, commencing with Regulation Section 1859).

“Relocation/DTSC Fee Fund” shall mean the fund established pursuant to Regulation Section 1859.163.3, in order to set aside funding at the time Preliminary Charter School Apportionments are approved by the Board for relocation expenses and/or DTSC fees that will be provided at the Final Charter School Apportionment upon submission of actual costs.

“Savings” means Grants not used by the Grantee for the Project, pursuant to Regulation Section 1859.103, achieved by the Grantee’s efficient and prudent expenditure of Grants.

“School District” shall have the meaning set forth in Education Code Sections 17070.15(m) and 17073.25.

“School Facility Program (SFP)” means the programs implemented under the Act.

“State” means the state of California.

“Unfunded List (Lack of AB 55 Loans)” means an information list of unfunded projects that was created due to the state’s inability to provide interim financing from the Pooled Money Investment Account (AB 55 loans) to fund school construction project as declared in the Department of Finance Budget Letter #33 issued on December 18, 2008.

(Authority: SFP Regulation 1859.2)

B. Term of Grant Agreement

The Grantee and the Executive Officer, or designee, of the Office of Public School Construction shall be the parties to this Agreement. This Agreement must be entered into by both parties prior

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to, and as a condition of, the release of any funding for the Project. This Agreement becomes effective on the date the Board approves the Project for either an Apportionment or placement on the Unfunded List (Lack of AB 55 Loans). This Agreement terminates once (1) all Grants and the Grantee's matching funds, including interest generated by the Grants, is expended, and when all of the Parties' obligations under this Grant Agreement are fully satisfied, or (2) if the Board rescinds the unfunded approval or apportionment, or (3) if the Grantee withdraws its Funding Application.

C. Project Execution

1. The Board hereby awards to the Grantee a sum of money (Grants) \$ [REDACTED] in consideration of and on condition that the sum be expended in carrying out the purposes as set forth in the description of the Project in this Agreement and its attachments and under the Terms and Conditions set forth in this Agreement. Grants may also be expended for the purposes of a future high priority Capital Outlay project as the result of Savings, or for the purposes of reimbursement, pursuant to SFP Regulation Section 1859.90.4.

(Authority: New Construction: Education Code Sections 17072.20 and 17070.63; New Construction and Modernization: SFP Regulations Article 8 commencing with Section 1859.70; Charter School Facilities Program: Article 14 commencing with Section 1859.160; Career Technical Education Facilities Program: Article 16 commencing with Section 1859.190)

2. Prior to the release of any funding for the Project, Office of Public School Construction staff has completed the following steps to finalize the Project funding amount outlined in this Agreement, as necessary:
 - i. The Funding Application was accepted on [REDACTED] and deemed to meet the definition of an Approved Application. The Grantee was provided written notification of any deficiencies and given 24 hours to remedy the identified deficiency(s) in order to retain the date upon which it was received.
 - ii. Upon confirmation of an Approved Application, Office of Public School Construction staff reviewed the Funding Application for compliance with School Facility Program Regulations and verified eligibility for all available program grants. The Grantee was provided written notification of all deficiencies and/or changes necessary and given 15 calendar days to respond and remedy the identified deficiencies and/or changes necessary.
 - iii. Upon review of the submitted corrections, Office of Public School Construction staff provided the Grantee written notification of any final deficiencies and required a response within four business days.
 - iv. Upon receipt of the final amendments to the Funding Application, the Office of Public School Construction staff and the Grantee agreed that the Project was ready for presentation to the Board for either an Apportionment or placement on the Unfunded List (Lack of AB 55 Loans).

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(Authority: SFP Regulation Sections 1859.2, 1859.70, 1859.90, 1859.93, 1859.93.1; and Office of Public School Construction process)

3. Grantee certifies that the Project complies with all laws and regulations applicable to the Project.

(Authority: Form SAB 50-04 certifications)

4. Grantee certifies that the Project complies with all labor and public contract laws, as applicable, including, but not limited to:

- i. Public Contract Code Section 20111.6, as added by Chapter 808, Statutes of 2012 (Assembly Bill 1565), which became effective on September 30, 2012. Beginning January 1, 2014 through December 31, 2018, new contracting requirements are effective for school districts with an average daily attendance of 2,500 or more for construction projects with estimated expenditures of at least \$1,000,000 that will be funded through the SFP or any future state school bonds. These new Public Contract Code requirements require a standardized prequalification questionnaire and financial statement to be verified under oath from all bidders.
- ii. Labor Code Section 1773.3, as amended by Senate Bill 854, Chapter 28, Statutes of 2014, which requires school districts that have School Facility Program projects with an initial public works contract awarded on or after January 1, 2012, to notify the Department of Industrial Relations (DIR). The DIR must provide prevailing wage monitoring services for all such projects, except in the cases of: (1) the district operates a DIR-approved internal wage monitoring program; or (2) the district has entered into a collective bargaining agreement that includes the requirements specified in Labor Code section 1771.4(b)(2).
- iii. Chapter 378, Statutes of 2011 (Assembly Bill 436), which required the Department of Industrial Relations to monitor and enforce prevailing wage requirements for every State bond funded project, including School Facility Program projects, pursuant to Labor Code Section 1771.7 for projects in which the initial public works construction contract was awarded before January 1, 2012. The Project must have also been apportioned from either Proposition 47 or 55 and the construction phase of the Project commenced on or after April 1, 2003.
- iv. Chapter 868 Statutes of 2002 (Assembly Bill 1506), which made projects funded from either Proposition 47 (2002) or Proposition 55 (2004) with a notice to proceed date on or after April 1, 2003 subject to Labor Compliance Program requirements as outlined in Labor Code Section 1771.5.

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<p>Project Execution Signature</p> <p>All laws and regulations noted in Sections (i), (ii), (iii), and (iv) above have been, and will be, followed, as applicable.</p> <p>X _____ Date _____</p>
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(Authority: Form SAB 50-04 certifications)

D. Receiving Board Approval

1. Grantee must have (1) title, (2) leasehold, or (3) other interest to Project lands. Title may include an order for pre-judgement possession issued by a court in an eminent domain proceeding.

(Authority: Education Code Section 17070.70; SFP Regulation Sections 1859.74 and 1859.74.1)

2. Grantee understands and agrees that the Grants, combined with local funds, shall be sufficient to complete the Project.

(Authority: Education Code Section 17070.63(a))

3. The Grantee has established a "Restricted Maintenance Account" for the exclusive purpose of providing ongoing and major maintenance of school buildings and has developed an ongoing and major maintenance plan that complies with and is implemented under the provisions of Education Code Section 17070.75 and 17070.77 (refer to Regulation Sections 1859.100 through 1859.102).

(Authority: SFP Regulation Section 1859.100 and Form SAB 50-04 certifications)

4. The Grantee has or will comply with Education Code Section 17076.11 regarding at least a three (3) percent expenditure goal for disabled veteran business enterprises.

(Authority: Form SAB 50-04 certifications)

5. The Grantee understands and agrees that (1) Grants required to be adjusted for site acquisition for both New Construction and Charter School Facilities Program projects, and (2) Grants not used by the Grantee that failed to meet substantial progress and (3) unspent Financial Hardship Grants, (4) unspent Charter School Facilities Program Grants, or (5) unspent Career Technical Education Facilities Program Grants must be returned to the state school facilities fund from which the Grants were apportioned as a result of an audit, pursuant to Education Code Section 17076.10 and Education Code Section 41024, as applicable.

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6. The Grantee understands and agrees that, if it does not remit the amount of Ineligible Expenditures identified in the audit report within 120 days of being invoiced by the California Department of Education, and if no repayment plan has been approved pursuant to paragraph (d) of Section 41024 of the Education Code, then the Controller shall deduct the total amount of any Ineligible Expenditures from apportionments pursuant to paragraph (d) of Section 41024 of the Education Code. The Grantee may request a payment plan pursuant to paragraph (d) of Section 41024 of the Education Code.

7. If the Grants will be used for the construction or modernization of school facilities on leased land, the Grantee has entered into a lease agreement for the leased property that meets the requirements of School Facility Program Regulation Section 1859.22.

8. The Grantee has established a facilities inspection system to ensure that each of its schools is maintained in good repair.

[Authority: Education Code Section 17070.75(f)]

9. The statutorily-required Grantee matching funds have either been expended by the Grantee, have been deposited by the Grantee in the county fund, or will be expended by the Grantee prior to notice of completion of the project.

(Authority: Education Code Sections 17072.30, 17074.16, 17078.72(g)(1), 17078.54(d), and 17075.10(b)(2); Form SAB 50-04 certifications)

10. The Grantee has considered the feasibility of using designs and materials for the new construction or modernization project that promote the efficient use of energy and water, maximum use of natural light 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 the other characteristics of high performance schools.

(Authority: Education Code Section 17070.96)

11. Financial Hardship Review Process **Not Applicable**

i. If the Grantee has requested Financial Hardship Grants, the Financial Hardship approval from the Office of Public School Construction was valid (Financial Hardship approvals are valid for 180 days) on the date the Approved Funding Application was received by the Office of Public School Construction.

[Authority: SFP Regulation Section 1859.81(e)]

ii.

a) If the Grantee has requested Financial Hardship Grants and has a bridge financing debt instrument in place, or will have a bridge financing debt instrument in place in the future in order to move the Project forward until Grants become available, then the Grantee agrees that it has received, or will receive, bridge-financing approval from the Office of Public School Construction.

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b) The Grantee also agrees to retire all bridge financing debt within 60 calendar days of receiving Grants. Failure to retire all bridge financing debt within 60 calendar days of receiving Grants will result in the amount of the Financial Hardship Grants in this Agreement being reduced by the amount of the bridge financing that was not retired.

iii. If the Project remained on the Unfunded List (Lack of AB 55 Loans) for more than 180 days, the Grantee understands and agrees that the Office of Public School Construction shall conduct a review to determine if the Grantee has additional funds available to contribute to the Grantee's matching funds.

[Authority: SFP Regulation Section 1859.81(e) and (f)]

iv. If the additional Office of Public School Construction review, pursuant to Section (iii) above, determined that the amount of the Financial Hardship Grant required an adjustment, pursuant to Financial Hardship rules detailed in SFP Regulation Section 1859.81, the amount of the Grants detailed in this Agreement will be amended.

[Authority: SFP Regulation Section 1859.81(a)]

12. [Instructions: The following sections only apply to the program, or other circumstance, that is detailed in this Agreement.]

New Construction:

i. The Grantee has received approval of the site and the plans from the California Department of Education and the Division of the State Architect. Plan approval is not required if request is for separate design Apportionment.

(Authority: SFP Regulation Section 1859.81.1)

ii. The Grantee agrees to submit Project Information Worksheets pursuant to School Facility Program Regulation Section 1859.104.

*Seismic Mitigation Program Replacement or Facility Hardship Replacement **Not Applicable:***

The Grantee agrees that the scope of this Project is the minimum work necessary to obtain approval by the Division of the State Architect and/or the federal, state, or local governmental entity with authority over of the work being performed to mitigate the

(health and safety or seismic) threat.

The Project must have an industry specialist report to substantiate the _____ (health and safety or seismic) threat and that details the minimum work necessary to mitigate the threat.

The Project must have concurrence by an appropriate governmental agency agreeing with the _____

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(health and safety or seismic) threat and the minimum work necessary to mitigate the threat.

The Project must have the approval letter from DSA verifying that the building(s) in the Project qualify as one of the “Most Vulnerable Category 2 Buildings”.

Site Acquisition: The Grantee has complied with Sections 1859.74 through 1859.75.1, as appropriate. The Grantee shall provide all applicable county assessor parcel numbers for the land being acquired for the Project. Grantee understands and agrees that Grants for site acquisition (i.e. site purchase, hazardous materials mitigation, relocation, etc.) as described in Section F (Accounting for Spent Funds) of this Agreement are limited to actual eligible expenditures. Therefore, the audit report may result in an adjustment (increase or decrease) to the Grant amount based on the final approved expenditures related to site acquisition separate and apart from all other Grants.

*Modernization of Portable Classrooms **Not Applicable:*** If this Agreement includes the modernization of portable classrooms eligible for an additional Apportionment pursuant to Education Code Section 17073.15, the Grantee certifies that either:

- i. The Grants will be used to replace the portable classrooms and permanently remove the displaced portables from the classroom use within six months of the filing of the Notice of Completion for the project; or,
- ii. It has provided documentation to the Office of Public School Construction which indicates that modernizing the portable classrooms eligible for an additional Apportionment is better use of public resources than the replacement of these facilities.

(Authority: SFP Regulation Section 1859.78.8)

*Modernization or Charter School Facilities Program Rehabilitation **Not Applicable:*** If this Agreement includes the modernization or Charter School Facilities Program Rehabilitation funding, the Grantee has received approval of the plans for the project from the California Department of Education and the Division of the State Architect. Plan approval is not required if request is for separate design Apportionment or advance release of funds for design from a Preliminary Charter School Apportionment.

(Authority: Modernization: SFP Regulation Section 1859.81.1; Charter: SFP Regulation Section 1859.163)

*Seismic Mitigation Program Rehabilitation or Facility Hardship Rehabilitation **Not Applicable:***

The Grantee agrees that the scope of this Project is the minimum work necessary to obtain approval by the Division of the State Architect and/or the federal, state, or local governmental entity with authority over of the work being performed to mitigate the

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The Project must have an industry specialist report to substantiate the _____ (health and safety or seismic) threat and that details the minimum work necessary to mitigate the threat.

The Project must have concurrence by an appropriate governmental agency agreeing with the _____ (health and safety or seismic) threat and the minimum work necessary to mitigate the threat.

The Project must have the approval letter from DSA verifying that the building(s) in the Project qualify as one of the "Most Vulnerable Category 2 Buildings".

The Project must have the approval letter from DSA indicating that the work in the project plans is the minimum work required to mitigate the _____ (health and safety or seismic) threat, which includes any other work triggered by the

_____ (health and safety or seismic) mitigation work and that is required in order to obtain DSA approval.

Charter Not Applicable:

- i. Facilities to be rehabilitated under the Charter School Facilities Program previously funded with School Facility Program funds meet the requirements of Regulation Section 1859.163.
- ii. The Grantee agrees to submit Project Information Worksheets pursuant to School Facility Program Regulation Section 1859.104.

Charter- Preliminary Charter School Apportionment Not Applicable:

- i. The Grantee agrees that failure to submit a Final Charter School Apportionment within the timelines prescribed for a Preliminary Charter School Apportionment (four years with a possible one-year extension subject to Board approval) shall be cause for rescission of the Preliminary Charter School Apportionment; and,
(Authority: SFP Regulation Section 1859.166)
- ii. The Grantee agrees that when the Preliminary Charter School Apportionment is converted to a Final Charter School Apportionment, the funding available for the Final Charter School Apportionment is subject to the provisions of Section 1859.167; and,
(Authority: SFP Regulation Section 1859.167)
- iii. The Grantee agrees that the California School Finance Authority must determine that the Grantee is financially sound at the time of the Preliminary Charter School Apportionment, advance release of design and/or site funds,

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and at the time of conversion to a Final Charter School Apportionment or the Preliminary Charter School Apportionment will be rescinded; and,
(Authority: SFP Regulation Section 1859.163)

iv. The Grantee agrees that in addition to this grant agreement, the Grantee must also enter into the Charter School Agreements.
(Authority: SFP Regulation Section 1859.90.2)

Career Technical Education Facilities Program **Not Applicable:**

The Grantee has complied with the Career Technical Education Facilities Program (CTEFP) eligibility criteria as outlined in Section 1859.192; and,

For Projects that received an Apportionment pursuant to SFP Regulation Section 1859.193(d) (CTEFP reservation of funds):

- i. The Grantee understands and agrees that by reserving funds in advance of obtaining the necessary approvals from California Department of Education and the Division of the State Architect, the Grantee must submit the necessary approvals and/or plans and specifications within one year of Apportionment; otherwise the Apportionment will be rescinded without further Board action.
- ii. Upon approval for placement on the Unfunded List (Lack of AB 55 Loans), the Grantee will receive a template of the Project Grant Agreement. OPSC will provide the Grantee the final Grant Agreement for the Project upon receipt of the necessary approvals from the Division of the State Architect and California Department of Education
- iii. The Grantee understands and agrees that the executed the Grant Agreement must be submitted prior to fund release.

(Authority: SFP Regulation Section 1859.197)

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E. Receiving an Apportionment and Receiving Funds

The Grantee and the Executive Officer, or designee, of the Office of Public School Construction shall enter into this Agreement prior to, and as a condition of, the release of any funding for the Project.

(Authority: proposed SFP Regulation Sections 1859.90 and 1859.90.2)

Additionally:

1. If the project is awarded an Unfunded Approval. The Grantee understands and agrees that, pursuant to School Facility Program Regulation Sections 1859.90.2 and 1859.90.3:
 - i. The Grantee shall participate in the priority funding process by submitting a valid priority funding request during a 30-day filing period after being placed on the Unfunded List (Lack of AB 55 Loans) in order to receive an Apportionment in accordance with Regulation Section 1859.90.3.
 - ii. Failure to submit a valid request within the filing period or failure to submit a valid *Fund Release Authorization* (Form SAB 50-05) after the Board approves an Apportionment shall result in an occurrence of non-participation.
 - iii. The Grantee understands and agrees that Grants may not be available for this Project after the Grantee has submitted a valid priority funding request. When the Grantee submits a valid priority funding request and Grants are not available, the Grantee shall not be charged with an occurrence of non-participation.
 - iv. After the second occurrence of non-participation, the funding for the Project shall be rescinded without further action by the Board.
2. Once an Apportionment is awarded. Any Grants provided to Grantee under this Agreement will be disbursed upon receipt of a complete valid Fund Release Application, and shall not exceed \$ [REDACTED] except for site-related exceptions.
(Authority: Education Code Sections 17072.13, 17072.14, and 17072.18)
3. Supplementary documentation submitted with, or prior to, a Fund Release Application must include this Agreement as well as documentation that proves the following:
 - i. The Grantee has entered into a binding contract(s) for at least 50 percent of the construction included in the plans and specification applicable to this Project.
 - ii. Notice to Proceed dates.
 - iii. For Career Tech projects where the Grantee received an Apportionment without needing Division of State Architect approval, evidence of Division of the State Architect approval date.
(Authority: Form SAB 50-05 certifications)
4. If the Office of Public School Construction finds that the Fund Release Application is incomplete, inadequate or inaccurate, it will notify the Grantee that the Grantee has ten (10) business days to address the issue(s). If the issue(s) has not been addressed after ten (10)

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business days, the Office of Public School Construction will consider the submittal to be invalid and the request will be returned to the Grantee. The Grantee will retain the opportunity to submit a valid Fund Release Application Authorization within 90 days of Apportionment. However, if the Grantee does not submit a valid Fund Release Application within 90 days of the Apportionment the Grantee will receive a non-participation occurrence as described in (1)(ii) above. The Grantee will not receive Grants at that time. Furthermore, any penalties imposed on the Grantee by a contractor, or other consequence, because of delays in payment will be paid by the Grantee and is not reimbursable under this Agreement.

(Authority: proposed amendment to School Facility Program Regulations)

5. If the project received an Apportionment and the Office of Public School Construction finds that the Fund Release Application is incomplete, inadequate or inaccurate, it will notify the Grantee that the Grantee has ten (10) business days to address the issue(s). If the issue(s) has not been addressed after ten (10) business days, the Office of Public School Construction will consider the submittal to be invalid and the request will be returned to the Grantee. The Grantee will retain the opportunity to submit a valid Fund Release Authorization within 180 calendar days of Apportionment for non-Financial Hardship districts or 365 calendar days for districts with Financial Hardship approval. However, if the Grantee does not submit a valid Fund Release Authorization within 180 or 365 calendar days the Apportionment will be rescinded without further Board action.

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F. Accounting for Spent Funds

1. For purposes of completing the Expenditure Reports required pursuant to Education Code Section 17076.10, over the course of the project, the Grantee shall maintain a general ledger at a Project-specific level that includes fund, resource, project year, goal, function, and object codes for all expenditures for the Project, including furniture and equipment, as they are described in the *California School Accounting Manual, Procedure 301: Overview of the Standardized Accounting Code Structure and Procedure 345: Illustrations Using Account Code Structure*.
(Authority: Education Code Section 17076.10)

2. Annual Expenditure Reports
Pursuant to Education Code 17076.10, beginning 12 months from the first fund release, and continuing annually for a period of up to [REDACTED] years after the final fund release, as described in SFP Regulation Section 1859.104, the Grantee shall submit an Expenditure Report to the Office of Public School Construction.

3. Substantial Progress Compliance Reviews

i. Pursuant to Education Code Section 17076.10, the Grantee shall be subject to a substantial progress review by the Office of Public School Construction under this Agreement with respect to all matters connected with this Agreement. The Grantee shall provide substantial progress documentation 18 months from the latest fund release. The Office of Public School Construction will consider the requirements of substantial progress met if the Grantee submits its Expenditure Report for a completed project up to 18 months from the latest fund release. The Office of Public School Construction must notify the Grantee within 60 days of receiving the documentation if a review and analysis of the information will be conducted.

(Authority: SFP Regulation Section 1859.105)

ii. For Grantees That Have Received Grants for Construction:

The substantial progress documentation required shall include evidence that either 75 percent of the site development work is complete, or 90 percent of the building work is under contract, or 50 percent of all construction activities are complete.

(Authority: School Facility Program Regulation Section 1859.105)

The documentation that the Grantee shall provide shall include, but is not limited to:

- a) The fund source indicated, for each project cost,
- b) Assessor's parcel number, for site acquisition costs,
- c) Qualification Appraisal(s) for Architect/Engineer/Construction Manager,
- d) Architect/Engineer/Construction Management Agreement(s),
- e) Evidence the Grantee has met Disabled Veteran Business Enterprise contractual requirements,
- f) Construction Contract Agreements to date,

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- g) Construction Bid Summaries,
- h) Construction Delivery Method,
- i) Project expenditures, to date, submitted on Detailed Listing of Project Expenditures (DLOPE) worksheet or in an equivalent format [the Office of Public School Construction will review expenditure totals for purposes of determining compliance with substantial progress requirements but will not review expenditures to determine eligibility under the program (this will be done by the local auditor)],
- j) General ledger report that details project expenditures to date
- k) Submittal of written policy and procedures that documents processes for accounting of School Facility Program project activities.
- l) Construction schedule of values or Continuation Sheet
- m) Project cost estimate

(Authority: Education Code Section 17071.10 and SFP Regulation Section 1859.105)

iii. For Grantees That Have Received Advanced Financial Hardship Site Grants or Environmental Hardship Grants **Not Applicable:**

The documentation that the Grantee shall provide if requested by the Office of Public School Construction shall include, but is not limited to:

- a) The final site appraisal,
- b) The California Department of Education final approval letter, evidence of the completion of any and all California Environmental Quality Act requirements
- c) Final escrow instructions or evidence the Grantee has filed condemnation proceedings including intent to request an order of possession of the site, as applicable.

(Authority: SFP Regulation Section 1859.105 or 1859.105.1, as applicable)

iv. For Grantees That Have Received Advanced Financial Hardship Grants for Design **Not Applicable:**

The documentation that the Grantee shall provide if requested by the Office of Public School Construction shall include, but is not limited to:

- a) An Approved New Construction or Modernization Adjusted Grant Application; or,
- b) A certification that the final building plans have been submitted to and accepted by the Division of the State Architect for review and approval.

(Authority: SFP Regulation Section 1859.105)

v.

- a) Should the Office of Public School Construction determine that the Grantee has not made substantial progress as described in (F)(3)(i), (ii), (iii), and (iv), it will inform the Grantee of its findings and require the Grantee to submit a final expenditure report within 60 days of notification, pursuant to SFP Regulation Section 1859.105. If no Grants have been expended by the Grantee, then the

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Office of Public School Construction will recommend to the Board that the project be rescinded.

- b) If Grants have been expended by the Grantee, then
 - I. The Project shall be subject to an audit pursuant to Section 41024 of the Education Code and the applicable provisions outlined in Section (F)(4) of this Agreement. The audit shall identify Grants expended in accordance with program requirements and the amount of any unspent Grants and the amount of any Ineligible Expenditures.
 - II. Once the amount of unspent Grants has been determined in the audit report described in (I) to be repaid and the Grantee repays the Grants, the Office of Public School Construction shall take an item to the State Allocation Board make a corresponding baseline eligibility adjustment, when applicable.

(Authority: SFP Regulation Section 1859.105)

4. Final Project Audit

The Grantee understands and agrees to the following:

- i. Upon Project completion pursuant to SFP Regulation Section 1859.104, the Office of Public School Construction may notify the Grantee, the Grantee's County Office of Education, and the State Controller's Office that the Grantee is subject to an audit of the Project by a local auditor that is in accordance with the Guide for Annual Audits of K-12 Local Education Agencies and State Compliance Reporting. The Grantee shall retain all financial accounts, documents, and records necessary for an audit pursuant to Education Code Section 41024(a)(4) and shall provide Project documentation, if requested by the local auditor.

[Authority: proposed amendment to School Facility Program Regulation Section 1859.104(a)]

- ii. Project documentation that the Grantee shall provide when requested by the local auditor, for the purposes of the audits described in Education Code Section 41024, shall include, but is not limited to:
 - a) Proof of acreage purchased
 - b) Proof of site costs and adjusted site grants, where applicable
 - c) Copy of Form SAB 50-04
 - d) Copy of SAB Board item(s) (Approval of project Apportionment)
 - e) DSA Approval Letter
 - f) Final CDE Approval Letter
 - g) Architect Final Billing
 - h) Proof of Routine Restricted Maintenance Account Deposit or documentation demonstrating district's facilities are maintained in good repair
 - i) Project-specific accounting records, such as a general ledger, as described in Spending Funds (Section F, paragraph 1), for all sources of funding
 - j) Final construction billing and invoices,

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- k) Any and all change orders
- l) Proof of date of Occupancy
- m) If the Grantee's matching funds have already been expended for this Project or have been deposited in the County School Facility Fund, the Grantee shall provide accounting records, such as a general ledger, for all sources of funding, verifying those previous expenditures or deposits. If the matching funds have been or will be spent from a Certificate of Participation (COP), then the Grantee shall indicate the fund that the proceeds from the COP were originally deposited into or will be deposited into. The Grantee shall also include a copy of the COP booklet. Providing the official notice of intent to sell bonds may be provided to prove that the Grantee will expend the Grants prior to the time the project is completed, as described complete pursuant to SFP Regulation Section 1859.104. If the Grantee has funds from another source not listed here, the Grantee shall provide the accounting records, such as a general ledger verifying the expenditures and deposits.

(Authority: Education Code Section 17076.10 and SFP Regulation Section 1859.106)

- iii. During the local auditor's audit and/or upon completion of the audit report, the Grantee understands and agrees that its Expenditure Report is final and may not be subsequently adjusted or amended.
- iv. The Grantee understands and agrees that:
 - (a) Should the audit report determine that the Grantee spent Grants on Ineligible Expenditures, the local auditor will inform the California Department of Education of the amount of the Ineligible Expenditure. The amount to be remitted will be limited to the proportionate percentage of Grants and Financial Hardship Grants. Grantees will not be required to provide the state with payments related to the amount of their matching funds. Ineligible Expenditures funded by Grants will not be considered Savings.
 - (b) The Grantee may appeal the finding of any Ineligible Expenditures, as described in Education Code Section 41024(d).
 - (c) The California Department of Education will recover Grants spent on Ineligible Expenditures, pursuant to Education Code Section 41024(d)(1).
 - (d) The Grantee may request a repayment plan from the California Department of Education related to the recovery of Grants described in (c).
 - (e) In order to recover funds as part of a repayment plan described in (d), the California Department of Education will notify the State Controller of the repayment plan and the State Controller will withhold funds from the Grantee's principal apportionment or Education Protection Account payments, pursuant to Education Code Section 41024(d).

(Authority: Education Code Sections 17070.63(c), 17076.10, and 41024; SFP Regulation Section 1859.106)

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v. The Grantee shall provide its Expenditure Report for a Project deemed complete pursuant to SFP Regulation Section 1859.104, and any and all audit reports, including the audits of Savings, to the Office of Public School Construction.
(Authority: Education Code Section 17076.10)

vi. The Grantee shall also provide site access to the local auditor to determine if the project work is in accordance with the Board-approved project scope, including a final inspection for a Project deemed complete pursuant to SFP Regulation Section 1859.104.
(Authority: Education Code Section 17076.10)

5. Savings Audit(s)

Grantees may retain Savings for expenditure for other high priority Capital Outlay with the exception of when Savings are generated:

- (1) in the Charter School Facilities Program, or
- (2) in the Career Technical Education Facilities Program, or
- (3) in advance of a site adjustment, or
- (4) for Financial Hardship Grants.

(Authority: Education Code Section 17070.63 and SFP Regulation Section 1859.103)

If the Grantee uses Savings to contribute to the Grantee's matching share on other SFP projects, then those SFP projects may only be funded from the same program (e.g. New Construction, Modernization), that this Project is funded from.

(Authority: SFP Regulation Section 1859.103)

The Grantee understands and agrees to the following:

i. Upon the Grantee declaring Savings pursuant to SFP Regulation Section 1859.103, the Office of Public School Construction may notify the Grantee, the Grantee's County Office of Education, and the State Controller's Office, that the Grantee is subject to annual audits of the Savings by a local auditor that is in accordance with the Guide for Annual Audits of K-12 Local Education Agencies and State Compliance Reporting until the Grantee has expended all Savings. The Grantee shall retain all financial accounts, documents, and records necessary for an audit pursuant to Education Code Section 41024(a)(4) and shall provide documentation related to the use of Savings, when requested by the local auditor.

[Authority: proposed amendment to School Facility Program Regulation Section 1859.104(a)]

ii. Savings documentation that the Grantee shall provide when requested by the local auditor, for the purposes of the audits described in Education Code Section 41024, shall include, but is not limited to:

- a) The Grantee's final expenditure report submitted to the Office of Public School Construction, and

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- b) Project-specific accounting records, such as a general ledger, as described in Spending Funds (Section F, paragraph 1), and
 - c) General ledger report verifying that the Savings has been deposited to county school facilities fund and detail verifying the expenditure of the funds for high priority Capital Outlay, and
 - d) Construction billing and related invoices.
(Authority: Education Code Section 17076.10 and SFP Regulation Section 1859.106)
- iii. The Grantee understands and agrees that its Savings expenditure reports submitted to the local auditor are final and may not be subsequently adjusted or amended.
- iv. The Grantee understands and agrees that:
- (a) Should the audit report determine that the Grantee spent Savings on Ineligible Expenditures, the local auditor will inform the California Department of Education of the amount of the Ineligible Expenditure. The amount to be remitted will be limited to the Savings. Grantees will not be required to provide the state with payments related to the amount of their matching funds.
 - (b) The Grantee may appeal the finding of any Ineligible Expenditures, as described in Education Code Section 41024(d).
 - (c) The California Department of Education will recover Grants spent on Ineligible Expenditures, pursuant to Education Code Section 41024(d)(1).
 - (d) The Grantee may request a repayment plan from the California Department of Education related to the recovery of Grants described in (c).
 - (e) In order to recover funds as part of a repayment plan described in (d), the California Department of Education will notify the State Controller of the repayment plan and the State Controller will withhold funds from the Grantee's principal apportionment or Education Protection Account payments, pursuant to Education Code Section 41024(d).
- (Authority: Education Code Sections 17070.63(c), 17076.10, and 41024; SFP Regulation Section 1859.106)*
- v. The Grantee shall provide its Savings expenditure reports, and any and all audit reports, to the Office of Public School Construction, pursuant to Education Code Section 17076.10.
- vi. The Grantee shall also provide site access to the local auditor to determine if the project work is in accordance with eligible uses of Savings.
(Authority: Education Code Section 17076.10)
6. Site Adjustments
Should the audit report determine that the amount of Grants received for site acquisition requires adjustment, then, upon receipt of the audit, the Office of Public School

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Construction will present the Project to the State Allocation Board for an adjustment to the Apportionment, in accordance with Education Code Section 41024 (c)(2).

7. Charter School Facilities Program and Career Technical Education Facilities Program
Unspent Grants, plus Interest **Not Applicable**

Should the audit report determine that the Grantee completed either the Charter Schools Facilities Program Project or the Career Technical Education Facilities Program Project without using all the Grants provided for eligible expenditures, the Office of Public School Construction will present the Project to the State Allocation Board for an adjustment to the Apportionment, in accordance with Education Code Section 41024 (c)(2).

8. Financial Hardship **Not Applicable**

Should the audit report determine that there are unspent Financial Hardship Grants, then the Grantee agrees to either (1) repay the unspent Financial Hardship Grants pursuant to Education Code Section 41024(c)(2) or (2) use the unspent Financial Hardship Grants on a future project(s), provided the Grantee qualifies for Financial Hardship Grants when it applies for funding for the future project(s).

- i. Upon receipt of the audit report, the Office of Public School Construction will notify the Grantee to determine whether the Grantee will repay the unspent Financial Hardship Grants immediately or use them for a future project(s). The Grantee will have 30 days to respond to the request.
- ii. If the Grantee intends to use unspent Financial Hardship Grants on a future project(s), it must do so within three years of the audit report's determination that not all Financial Hardship Grants were expended for this Project or from the date that Savings was declared by the Grantee, whichever comes first. Failure to use unspent Financial Hardship Grants on a future project(s) within that time will result in the Grantee repaying the unspent amount plus interest.

(Authority: Education Code Section 41024 and SFP Regulation Section 1859.81)

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G. Advisory Listing Detailing Common Eligible Project Expenditures

Project expenditures not listed in this document will not be considered eligible for funding under the School Facility Program.*

Project expenditures will only be considered eligible if:

- The expenditures are within the Project scope that was approved by the State Allocation Board
- The expenditures are substantiated with contracts, invoices, final billings, and verification of payment
(Authority: Education Code Section 41024)
- The expenditures are expended or encumbered prior to the time a project is deemed complete, pursuant to SFP Regulation Section 1859.104
(Authority: Education Code Section 17076.10)

The Grantee may seek written clarification from OPSC for items not included in the lists of eligible and ineligible project expenditures. The local auditor may use the written response from OPSC to guide the audit of the project expenditures.

*Project expenditures not listed in the following tables may be considered if those expenditures are reasonable and appropriate site development work pursuant to SFP Regulation Section 1859.76.

(Authority: SFP Regulation Section 1859.76)

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**1. New Construction - Separate Apportionment for Design Costs
 Or Adjusted Grant
 Charter Schools Facilities Program - Separate Apportionment for Design Costs
 Or Adjusted Grant
 Common Eligible Project Expenditures**

DESIGN COSTS		
	Type of Expenditure	Authority
a.	Advertising for Construction Bids	Ed. Code Section 17072.35
b.	Architect’s Fee for Plans	
c.	CDE Plan Check or Site Review Fee	
d.	California Environmental Quality Act (CEQA) Associated Costs	SFP Reg. Section 1859.105
e.	Consultant Fees – specific to SFP project(s) (prorate if necessary)	Ed. Code Section 17072.35*
f.	Division of the State Architect (DSA) Plan Check Fee	Ed. Code Section 17072.35
g.	Energy Analysis Fee	Ed. Code Section 17072.35*
h.	Legal Fees associated with: <ul style="list-style-type: none"> • The review of the SFP project-related lease agreements. • The review of the SFP project-related contracts between districts and contractors, architects, construction managers or engineers. • The review of the SFP project-related bid documents and bid responses. 	
i.	Local Agency Plan Check Fees	
j.	Preliminary Site Tests	Ed. Code Section 17072.35
k.	Engineering Fees	

*These costs are recognized as components of allowable costs pursuant to EC Section 17072.35, and may be included as allowable expenditures under the New Construction program.

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**2. New Construction - Separate Apportionment for Site Acquisition Costs
 Charter Schools Facilities Program - Separate Apportionment for Site Acquisition Costs
 Common Eligible Project Expenditures**

	Type of Expenditure	Authority
Site Acquisition		
a.	Purchase Price of Property – provided site was not previously funded under Lease-Purchase Program or School Facility Program. Eligible purchase expenditure is the lesser of the appraised value (submitted within six months of a complete Form SAB 50-04) or actual site cost.	Ed. Code Sections 17072.12, 17072.35 & SFP Reg. Section 1859.74
Site (Other) (4 % Allowance)		
b.	Appraisal Fees	Ed. Code Section 17072.35 & SFP Reg. Sections 1859.74, 1859.74(2) or 1859.74(3), as appropriate
c.	Escrow Fees	
d.	Legal Fees associated with: <ul style="list-style-type: none"> • The review of site acquisition documents • Site condemnation or relocation proceedings. • The review of the SFP project-related lease agreements. 	
e.	Litigation costs not to exceed the total SFP project funding Apportionment.	
f.	Preparation of POESA and PEA when required by the Department of Toxic Substances Control.	
g.	Survey Costs	
DTSC Fees		

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	Type of Expenditure	Authority
h.	DTSC Phase One Environmental Site Assessment (POESA) fees, Preliminary Environmental/ Endangerment Assessment (PEA) fees, and Response Action costs paid to the Department of Toxic Substances Control.	Ed. Code Sections 17072.13 & 17072.35
Hazardous Waste Removal		
i.	CEQA expenditures as long as they are not for services rendered by district personnel.	Ed. Code Sections 17072.13 & 17072.35
j.	Hazardous waste removal costs - only when associated with a Department of Toxic Substances Control issued determination of a need for a Remedial Action Plan, Removal Action Work Plan or Supplemental Site Investigation Plan to address necessary cleanup. Including: <ul style="list-style-type: none"> • Expenses for Remedial Action Plan and/or Removal Action Work Plan if acted upon. • Expenses for public participation if Remedial Action Plan and/or Removal Action Work Plan acted upon. • Expenses for Supplemental Site Investigation with a Remedial Action Plan and/or Removal Action Work Plan • Expenses for Voluntary Cleanup Agreement and/or School Cleanup Agreement 	
Relocation Assistance		
k.	Relocation Assistance – as long as expenditures conform to Title 25, CCR, Section 6000. This includes expenditures for the following: <ul style="list-style-type: none"> • Residential Tenant Occupant Moving expenses 	Ed. Code Sections 17072.13, 17072.35 & CA Code of Reg., Title 25, Section 6000

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	Type of Expenditure	Authority
	<p>Rental Assistance – payment not to exceed \$5,250</p> <p>Last Resort Housing</p> <ul style="list-style-type: none"> • Residential Owner Occupant Moving expenses <p>Replacement Housing – Not to exceed \$25,500</p> <ul style="list-style-type: none"> • Business • Moving expenses – In addition, a displaced business owner may file a claim for the following: <p>The cost directly related to modifying machinery, equipment, or other personal property to adopt it to the new site. The cost of any license, permit, or certification to reestablish a business at a new location</p> <p>The reasonable cost of any professional services necessary for planning the move, moving the property, or installation of property at the replacement site.</p> <p>When an item is not moved but replaced with a comparable item, reimbursement shall be the lessor of replacement cost or estimated cost of moving by professional mover.</p> <ul style="list-style-type: none"> • Losses of Tangible Personal Property • Searching for a Replacement Site • Re-establishment Expenses • In Lieu Payments - Any displaced person who moves or discontinues their business may elect to receive a fixed relocation payment :in lieu” of moving, losses of 	

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	Type of Expenditure	Authority
	tangible property, searching, and reestablishment costs.	

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**3. New Construction - Adjusted Grant
 Charter Schools Facilities Program - Adjusted Grant
 Common Eligible Project Expenditures**

CONSTRUCTION COSTS		
	Type of Expenditure	Authority
a.	Construction Management Fees	Ed. Code Section 17072.35
b.	Building Construction Costs – Including: <ul style="list-style-type: none"> • Foundations • Structures • Exterior & Interior Finishes • Fittings & Fixtures • Plumbing • Electrical • Mechanical • Shade Structures • Solar or Alternative Energy Source Components 	
c.	Construction Security (Campus Security and administrative overhead – not eligible)	Ed. Code Section 17072.35*
d.	Construction Tests	Ed. Code Section 17072.35
e.	Costs incurred to initiate, enforce and maintain a LCP, which may include school district “third party providers” costs, district’s own Force Account labor costs, or construction manager costs.	Labor Code Section 1771.1(a) & (b) & SFP Reg. Section 1859.79.2
f.	Force Account Labor – complies with the Public Contract Code and is specific to the project, adhering to the following criteria outlined in Section 20114: <ul style="list-style-type: none"> • For school districts with an average daily attendance less than 35,000, the total number of hours on the job does not exceed 350 hours • For school districts with an average daily attendance of 35,000 or greater, the total 	PCC Section 20114

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CONSTRUCTION COSTS		
	Type of Expenditure	Authority
	number of hours on the job does not exceed 750 hours or when the cost of material does not exceed \$21,000. <ul style="list-style-type: none"> • Must be work that involves a skilled trade. To be eligible must be supported by time cards or time logs.	
g.**	General Site Development within school property lines (Including but not limited to): <ul style="list-style-type: none"> • Finish Grading • Roads and Driveways • Sidewalks, stairs, & Ramps • Parking Area • Curbs and Gutters • Turfed/Paved Play Area • Playground Equipment • Surface Drains & Play Area • V-Gutters at Parking Lot • Landscaping & Irrigation System • Site Lighting • Fencing & Outdoor Walls 	SFP Reg. Section 1859.76(d)
h.	Inspections – For services provided during construction of project.	Ed. Code Section 17072.35
i.**	Off-Site Development costs on up to two immediately adjacent sides of the site (see SFP Regulation Section 1859.76(b) for detail). Including: <ul style="list-style-type: none"> • Curbs & Gutters • Sidewalks • Street Light, Planting Areas, Street Signs, Traffic Signals, Etc., Mandated by Local Ordinances • Special District Fees 	SFP Reg. Section 1859.76(b)

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CONSTRUCTION COSTS		
	Type of Expenditure	Authority
	<ul style="list-style-type: none"> Storm Drains to Point of Connection Safety Paths 	
j.**	Service Site Development costs within school property lines (see SFP Regulation Section 1859.76(a) for detail). Including: <ul style="list-style-type: none"> Site Clearance Demolition Rerouting Utility Lines Rough Grading Soil Compaction Storm Drains Erosion Control Outside Stairs & Retaining Walls Relocation of Existing Portables Fire Code Requirements Multi-Level Parking 	SFP Reg. Section 1859.76(a)
k.**	Utility Service costs associated with the CDE approved site size that are necessary to serve the master planned capacity of the site (see SFP Regulation Section 1859.76(c) for more information) as follows: <ul style="list-style-type: none"> Water Sewage Gas Electric Communication systems 	SFP Reg. Section 1859.76(c)
l.	Furniture and Equipment that meet all of the criteria as described in Government Code Section 16727 and the California School Accounting Manual (CSAM), Procedure 770 as follows: <ul style="list-style-type: none"> Lasts more than two years. It is typically repaired rather than replaced. 	Ed. Code Section 17072.35 & CSAM Procedure 770

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CONSTRUCTION COSTS		
	Type of Expenditure	Authority
	<ul style="list-style-type: none"> It is an independent unit (rather than being incorporated into another unit item). The cost of tagging and inventory is a small percentage of the item cost. Not operational or administrative costs. <p>It exceeds the minimum dollar value of capitalization threshold established by the local educational agency, but in no case should the threshold be less than \$5,000. The following types of furniture and equipment are examples that would be eligible if they met the criteria for CSAM Procedure 770:</p> <ul style="list-style-type: none"> Projectors Smart Boards Freezers Refrigerators Stoves Exercise equipment – Only if available for use by all students 	
m.	Furniture and Equipment: <ul style="list-style-type: none"> Desks Chairs Built-in Storage Cabinets Window Coverings White/Chalk Boards Library Books 	Ed. Code Section 17072.35
n.	Demolition Costs	Ed. Code Section 17072.35
o.	Interim Housing – only eligible if new construction additions are to an existing site where classrooms	Ed. Code Section 17072.35*

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CONSTRUCTION COSTS		
	Type of Expenditure	Authority
	temporarily are inaccessible or unsafe to house students during construction.	

*These costs are recognized as components of allowable costs pursuant to EC Section 17072.35, and may be included as allowable expenditures under the New Construction program.

**Eligible expenditures in these sections may exceed the amounts requested on the Funding Application.

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H. Advisory Listing Detailing Common Ineligible Project Expenditures

The following tables are intended to provide advisory listings of common, but not exhaustive, ineligible Project expenditures.

In addition to the ineligible Project expenditures listed on the following tables, any costs associated with the Grantee's local debt issuance or interest on the Grantee's local bond(s) are also ineligible Project expenditures.

The Grantee may seek written clarification from OPSC for items not included in the lists of eligible and ineligible project expenditures. The local auditor may use the written response from OPSC to guide the audit of the project expenditures.

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- 1. New Construction – Separate Apportionment for Design Costs
 Or Adjusted Grant
 Charter Schools Facilities Program – Separate Apportionment for Design Costs
 Or Adjusted Grant
 Common Ineligible Project Expenditures**

DESIGN COSTS		
	Type of Ineligible Expenditure	Authority
a.	Legal Fees not attributable to the project	Ed Code Section 17072.35
b.	For projects that received Design funds only any site and/or construction related expenditures are not eligible	

- 2. New Construction – Separate Apportionment for Site Acquisition Costs
 Charter Schools Facilities Program – Separate Apportionment for Site Acquisition Costs
 Common Ineligible Project Expenditures**

CONSTRUCTION COSTS		
	Type of Expenditure	Authority
a.	Relocation costs not considered reasonable such as: goodwill not court ordered; the difference between the salvage value and new value of furniture and equipment costs, if the business vendor retains the furniture and equipment.	Ed Code Section 17072.35
b.	For projects that received site funds only (did not receive construction funds) any construction related expenditures are not eligible.	

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**3. New Construction – Adjusted Grant
 Charter Schools Facilities Program – Adjusted Grant
 Common Ineligible Project Expenditures**

CONSTRUCTION COSTS		
	Type of Ineligible Expenditure	Authority
a.	Administrative and overhead costs including indirect costs for general management.	Ed Code Section 17072.35
b.	Campus supervision going beyond construction site security (such as campus security and administrative overhead).	
c.	Repair of damages incurred during construction are not eligible	
d.	Expenditures associated with Facility Hardship SAB approvals which were not constructed as originally approved (see Regulation Section 1859.82).	
e.	Operational costs (such as service contracts and maintenance expenses or commissioning).	
f.	Supplies as described in the California School Accounting Manual (CSAM), Procedure 770.	Ed Code Section 17072.35 & CSAM Procedure 770
g.	Items not considered Furniture and Equipment because they are considered operational or supplies in nature, including: <ul style="list-style-type: none"> • Computers • Printers • Computer Carts • Teacher and student text books. • Athletic Team supplies/training equipment/uniforms. • Classroom supplies/consumables Bunsen Burners, test tubes, chemicals, mechanic wrenches, etc. • Golf Carts • Trailers 	

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CONSTRUCTION COSTS		
	Type of Ineligible Expenditure	Authority
	<ul style="list-style-type: none">• Trucks/Tractors and cars• Landscape equipment Mowers, etc.• School maintenance equipment Floor polisher/scrubber, etc.• Cleaning & janitorial supplies• Band equipment/Uniforms• Mascot Uniforms	

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I. Record Retention

Grantee shall maintain satisfactory financial accounts, documents, and records for the Project, at a Project-specific level of detail. Grantee shall also retain such financial accounts, documents, and records necessary for an audit, pursuant to Education Code Section 41024(a)(4).

Financial accounts, documents, and records may be retained electronically.
(Authority: Government Code Section 12275(a) and (b), and Education Code Section 41024)

J. Material Inaccuracy

If a failure by the Grantee to comply with the terms of this Agreement, or an audit report determination that the Grantee has violated applicable state or federal law as it relates to this Project, stems from falsely certified information on the Funding Application or Fund Release Application (including certifications made by architects or other design professionals), then Material Inaccuracy findings and penalties, as described in Education Code 17070.51 and SFP Regulation Section 1859.104.1, may apply.

K. Conflict of Interest

All Grantees are subject to State and Federal conflict of interest laws. Failure to comply with these laws, including business and financial disclosure provisions, will result in the application being rejected and any subsequent contract being declared void. Other legal action may also be taken. Applicable statutes include, but are not limited to, Government Code, Section 1090 and Public Contract Code, Sections 10410 and 10411, for State conflict of interest requirements.

1. Employees of the Grantee: Employees of the Grantee shall comply with all applicable provisions of law pertaining to conflicts of interest, including, but not limited to any applicable conflict of interest provisions of the California Political Reform Act, Cal. Gov't Code § 87100 et seq.
2. Employees and Consultants to the Grantee: Individuals working on behalf of the Grantee may be required by the Department to file a Statement of Economic Interests (Fair Political Practices Commission Form 700) if it is determined that an individual is a consultant for Political Reform Act purposes.

ATTACHMENT B2

STATE OF CALIFORNIA
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L. Severability

If any provision of this Agreement or the application thereof is held invalid, that invalidity shall not affect other provisions or applications of this Agreement which can be given effect without the invalid provision or application, and to this end the provisions of this Agreement are severable.

M. Disputes

1. Any claim that the Grantee may have regarding performance of this agreement including, but not limited to, claims for additional compensation or extension of time, shall be submitted to the Office of Public School Construction. The Office of Public School Construction and Grantee shall then attempt to negotiate a resolution of such claim and process an amendment to this Agreement to implement the terms of any such resolution.
2. Any claim that the Grantee may have regarding the audit report's project expenditure determination shall be adjudicated by the Education Audit Appeals Panel, consistent with Education Code Section 41344.

N. Electronic Filing

Any communication under this Grant Agreement shall be in writing and may be transmitted by electronic means. Communication sent electronically will be effective on the date of transmission.

O. Supplement, Not Supplant

The terms and conditions of this Agreement are intended to supplement, not supplant, the laws and regulations that apply to this Project. The Grantee understands and agrees to adhere to all laws and regulations that apply to this Project, even if those laws and regulations are not specifically cited in this Agreement.

P. Exact Duplicate

ATTACHMENT B2

STATE OF CALIFORNIA
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This Agreement is an exact duplicate (verbatim) of the Agreement provided by the Office of Public School Construction. In the event a conflict should exist, the language in the Agreement provided by the Office of Public School Construction will prevail.

SIGNATURES

The statements set forth in this Agreement are true and correct to the best of my knowledge and belief. IN WITNESS WHEREOF, this Agreement has been executed by the parties.

NAME OF GRANTEE REPRESENTATIVE (PRINT)	PHONE NUMBER
SIGNATURE OF GRANTEE REPRESENTATIVE	DATE
SIGNATURE OF EXECUTIVE OFFICER OF THE OFFICE OF PUBLIC SCHOOL CONSTRUCTION, OR DESIGNEE	DATE

Comparative Timeline of Funding Models

