



Board of Education Report

File #: Rep-204-16/17, **Version:** 1

Amendment to the Facilities Services Division Strategic Execution Plan to Approve an Increase to the Charter Augmentation Grant for the Monseñor Oscar Romero Charter School Project at Berendo Middle School

November 15, 2016

Facilities Services Division and Charter Schools Division

Action Proposed:

Staff proposes that the Board of Education (Board) approve an amendment to the Facilities Services Division (FSD) Strategic Execution Plan (SEP) to increase the charter augmentation grant for the Monseñor Oscar Romero Charter School (MORCS) project from \$8,575,000 to \$15,200,000.

This increase will provide the funds necessary for MORCS to award the construction contract for the project. Their request to increase the augmentation grant amount was evaluated under the February 2016 updated Charter Augmentation Grant Program guidelines, which require charter school applicants to contribute a minimum of 50 percent of the total project cost from non-District sources. The MORCS charter augmentation grant will be funded by Bond Program funds earmarked for charter school facilities projects.

Background:

In September 2012, the Board authorized the development of a permanent facility for MORCS on a portion of the Berendo Middle school campus. This proposal also authorized the award of an augmentation grant to support the design and construction of the permanent facility (Board Report No. 014-12/13). The Board later, in December 2014, adopted an amendment to increase the charter augmentation grant for this project. Furthermore, the Board also approved the Berendo Facilities Improvement project to provide a new gymnasium in order to support MORCS and Berendo students (Board Report No. 217-14/15). As part of this proposal, staff informed the Board that in the event the construction bid was higher than anticipated, or if unforeseen conditions were encountered during construction that resulted in cost increases, the District may assume any necessary costs, including exceeding the District's percent of the match outlined in the Charter Augmentation Grant Program guidelines given that the construction activities would be occurring on an operational school site. However, staff recognizes that the Charter Augmentation Grant Program guidelines have been updated since the December 2014 action (to provide a match of up-to 50 percent instead of 35 percent), and therefore to ensure transparency and minimize confusion, staff is requesting that the Board take action to adopt the proposed SEP amendment to authorize the increase.

MORCS currently occupies space at Berendo under Proposition 39. The proposed project will provide permanent educational facilities for approximately 400 students in sixth through eighth grade to be located on 1.10 acres at the northeastern corner of the Berendo campus. The project is being developed by YPI Charter Schools Inc. (YPI), the governing nonprofit organization and operator of MORCS. The proposed 37,000 square foot project consists of a two-story building including 16 classrooms, an administration building, a multi-purpose building, a lunch shelter, a small outdoor courtyard and an underground parking structure. The project also includes the demolition of seven bungalows, a restroom building, a surface parking lot and an outdoor basketball court.

The MORCS project budget has been increased from \$24,500,000 to \$30,400,000 to reflect the anticipated construction contract amount based on bids received. As a result, MORCS is requesting an increase to the augmentation grant from \$8,575,000 to \$15,200,000. The increase to the augmentation grant meets the criteria of the Augmentation Grant Program, which requires the charter school to contribute a minimum of 50 percent of the total project cost from non-District sources. MORCS anticipates funding the remainder of the project with Proposition 1D funds provided through the State's Charter School Facilities Program (CSFP).

The MORCS project is currently anticipated to start construction during the first quarter of 2017 and be completed by the third quarter of 2019. Previously, MORCS had anticipated beginning construction in the fourth quarter of 2015 and completing construction in the first quarter of 2018. This change is due to availability of State funding for the MORCS project. The principal, Local District and the community have been briefed on the proposed project and schedule changes. This project is located within Local District Central and Board District 2 (Mónica García).

Expected Outcomes:

This action, if approved, will increase the augmentation grant funding for the MORCS charter school project at Berendo from \$8,575,000 to \$15,200,000. The augmentation grant funds will be provided to the charter upon proof that all other non-District funding has been received and/or committed to ensure that funds can be effectively leveraged. The project, once complete, will provide a long-term location for MORCS, who will waive their rights under *Proposition 39* for the term of the lease.

Board Options and Consequences:

If the proposed action is not approved, the augmentation grant will not be increased and MORCS will not be able to construct a permanent school facility on the Berendo campus. MORCS would continue to be eligible for the use of District facilities under *Proposition 39*.

Policy Implications:

This action helps facilitate the Board-adopted Facilities Services Division Strategic Execution Plan and is consistent with the District's Charter School Facilities Expansion Policy, adopted on April 10, 2007, which designates program requirements for projects that provide long-term facility solutions as an alternative to the annual *Proposition 39* allocation of District facilities.

Budget Impact:

MORCS has requested an increase to their augmentation grant from \$8,575,000 to \$15,200,000. The total anticipated District cost, including costs related to staff oversight to ensure compliance with District guidelines and approvals, including, but not limited to, environmental review, design review, inspection, and the development of necessary agreements is \$16,110,000.

Funding for this project will be provided from Bond Program funds earmarked for charter school facilities projects. Unexpended funds allocated toward District oversight will be returned to the School Upgrade Program funding category of need for charter school facilities at the completion of the project.

Issues and Analysis:

The MORCS project budget of \$30,400,000 reflects the current budget estimate, including the anticipated construction contract amount based on the bids received by the two lowest bidders, Novus Construction and Kemp Bros. Construction, Inc. (Kemp). YPI is still in negotiations with the lowest bidder, Novus Construction. Depending on the outcome of their negotiations, it may be necessary for YPI to award the construction contract

to the second lowest bidder, Kemp. The proposed increase to the augmentation grant provides sufficient funding to allow YPI to award a contract to Kemp if necessary. In order to secure the State funding, which represents fifty percent of the total project budget, YPI must provide proof to the State that a Notice-to-Proceed has been issued to the construction contractor no later than November 15, 2016. If the Board does not adopt or postpones action on staff's proposal, YPI will need to evaluate how to best proceed.

In the event unforeseen conditions are encountered during construction that increase the project budget, the District will assume any costs that can't be reduced through value engineering or other cost saving methods, or are otherwise covered by contingencies already included in the project budget. If ultimately the project requires more than \$15,200,000, staff will inform the Board via an Informative. In the event that this should occur, the District share of the costs may exceed the 50 percent match set forth in the Augmentation Grant Guidelines. This is necessary due to the fact that the project is being constructed on an operational District school site. Funding for any future augmentation grant increase would be provided from Bond Program funds earmarked for charter school facilities projects.

The project has received the required approvals from the California Department of Education (CDE) and the DSA. Furthermore, on December 9, 2014, in accordance with the California Environmental Quality Act (CEQA), the Board of Education adopted the Mitigated Negative Declaration (BOE Report #218-14/15) and approved the project (BOE Report #219-14/15). The project has received partial approval from the Department of Toxic Substances Control (DTSC), and anticipates receiving final DTSC approval upon removal of shallow soil in the fourth quarter of 2016.

If the Board approves the proposed augmentation grant increase, MORCS anticipates funding the remainder of the project with Proposition 1D funds provided through the State CSFP, consisting of a grant and a loan. While the transaction for use of these funds is between the State and charter, the District will become a third party to the CSFP transaction as a result of the statutory obligation that the District hold title to the property and that the charter school enter into a 40-year lease with the District for the property.

Under the State's CSFP, in the event that the charter school defaults in repayment of their loan, loses its good standing, and/or has their charter revoked, the District must take action in the following order:

1. If the default is the revocation or non-renewal of the charter, the District must afford the charter school six months to complete the charter review process;
2. Exercise reasonable effort to locate another charter school willing to assume the position of the defaulting charter school;
3. Elect to use the charter school facility as a public school and assume repayment of the loan OR elect not to use the charter school facility and dispose of the leasehold interest in the charter school facility in accordance with the statutory requirements for the disposal of surplus public school sites.

Bond Oversight Committee Recommendations:

This item was considered by the School Construction Bond Citizens' Oversight Committee (BOC) at its meeting on November 3, 2016. Staff has concluded that this proposed SEP amendment will help facilitate implementation of the FSD SEP, and therefore, it will not adversely affect the District's ability to successfully complete the SEP.

Attachments:

None.

Informatives:

None.

RESPECTFULLY SUBMITTED,


MICHELLE KING
Superintendent


APPROVED BY:



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