

Board Office Use: Legislative File Info.	
File ID Number	20-2047
Introduction Date	12/2/2020
Enactment Number	20-1843
Enactment Date	12/9/2020 er



Memo

To Board of Education

From Kyla Johnson-Trammell, Superintendent
Kelly Krag-Arnold, Policy Specialist – Office of Charter Schools

Board Meeting Date December 9, 2020

Subject Prop 51 Long-term Facilities Use Agreement and Memorandum of Understanding: Achieve Academy

Action Vote

Background Prop 51 allows charter schools to apply for funding of new construction and/or rehabilitation projects of district-owned facilities that are at least 15 years old. Through Prop 51, Achieve Academy was awarded up to \$21.8 million to invest in the Hawthorne campus for modernization only. It is an expectation of Prop 51 that the District would sign a long-term lease with the charter school because the charter school would take on a loan for half the cost of the construction project.

The primary terms of the lease are as follows:

- Achieve will receive a long-term lease of the following duration: July 1, 2021 through June 30, 2036 (with options to extend for 15 years and then 10 years)
- Achieve plans to use Prop 51 funds to rehabilitate the existing facilities it occupies
- Achieve will cap charter enrollment at the current charter authorized limit, and agrees not to request a material revision for enrollment growth throughout the duration of this lease unless mutually agreed upon by the District and the charter school
- Achieve will not increase the capacity of the site to serve more students
- Achieve intends to turn over three portable classrooms to UPA to allow the school to expand

The Memorandum of Understanding (“MOU”) is an agreement between the State of California, Achieve Academy, and Oakland Unified. As a requirement to receive Prop 51 funding, this MOU must be approved by the District.

As stated on page 2 of the MOU, the intention of the MOU is to “tie together two (2) separate legal agreements: (i) a Funding Agreement by and between the State and the Charter School; and (ii) a Facilities Use Agreement by and between the School District and the Charter School.”

This MOU outlines the rules and conditions of Prop 51 and the obligations of the charter school to the State. This MOU is the template language the State uses for all Prop 51 agreements. It is the same MOU language that the Board previously approved and signed for Lazaar, LPS R&D, and Aspire BMA.

Discussion

Per the Board’s discussion at the First Read, Staff is providing a response below to the question that was raised:

What is the difference between the anticipated Prop 39 revenue compared to the anticipated Prop 51 revenue at the Hawthorne campus over 40 years?

The tables below compare the net value to the district of (1) the current Prop 39 rate to (2) the proposed Prop 51 FUA over 40 years.

Proposition 39 for 40 years	
Total revenue with Prop 39 rate	~\$10,000,000
Approximate maintenance costs	~\$5,400,000
Net Value to District	~\$4,600,000

Proposed Proposition 51 FUA for 40 years	
Total revenue with proposed Prop 51 FUA rate	~\$2,000,000
Value of improvements	Between \$10,000,000 and \$21,800,000
Net Value to District	Between ~\$13,800,000 and ~\$23,800,000

Notes

- *The 2020-21 Prop 39 fee for Achieve Academy at Hawthorne Campus is \$241,304. This is based on square footage of 50,908 sq ft and the 2020-21 Prop 39 per square foot rate of \$4.74.*
- *Achieve Academy’s 2019-2020 LCFF (from which the revenue is determined) was \$5,727,228.*

- *These calculations do not include an estimate of the value of the increased asset, nor are they adjusted for cost of living or inflation.*
- *Estimated maintenance costs include priority 1 and 2 improvements as identified by the 2017 Jacobs facilities data.*

Additionally, a typo in the title was corrected to state the correct initial term of July 1, 2021-June 30, 2036. No other changes were made to the Facilities Use Agreement or the Memorandum of Understanding.

Fiscal Impact

Through Prop 51, the charter school will be investing up to \$21.8 million in rehabilitation on the Hawthorne site. The charter school will receive half of this money as a grant, and the other half as a loan to be paid back to the State over 30 years. The District will hold title to the increased value of this property.

The Facilities Use Agreement also includes a payment structure for facilities fees to be paid to the District. In addition to the annual 1% oversight fee, Achieve will pay fees to the District according to the below schedule.

Term	Fees Paid for In-District Students	Fees Paid for Out-of-District Students (if >10% of enrollment)
Years 1-5	0.50% of revenue	0.95% of revenue
Years 6-15	0.50% of revenue	0.95% of revenue
Years 16-25	0.75% of revenue	1.20% of revenue
Years 26-35	1.00% of revenue	1.45% of revenue
Years 36+	2.00% of revenue	2.45% of revenue

The MOU has no direct fiscal impact for the District, as the fiscal impact comes from the long-term lease. Signing this MOU allows the charter school to begin to draw down 10% of Prop 51 funds to use for the design and scoping of the renovation project. Achieve will assume all maintenance and other facilities costs for the Prop 51 facility.

Attachment

Facilities Use Agreement with Exhibits A and B
Memorandum of Understanding