

LEGISLATIVE FILE

File ID No. 12-3096

Introduction Date 12-12-2012

Enactment No. 12-3014


Enactment Date 12-12-12

**OAKLAND UNIFIED SCHOOL DISTRICT
OFFICE OF THE SUPERINTENDENT
December 12, 2012**

TO: Board of Education

FROM: Tony Smith, Ph. D, Superintendent
Timothy White, Associate Superintendent for Facilities Planning & Management

SUBJECT: Project Budget Transfer / Lowell Modernization Project ("Project") #06004 and Amendment of Lease Back Agreements



ACTION REQUESTED:

Approval by the Board of Education of Resolution No.1213-0044 - **Approval of Increased Project Budget Expenditure and Amendment of Lease Back Agreements Pertaining to the Lowell Modernization Project ("Project") #06004** in the amount of \$750,000.00 increasing the Guaranteed Project Cost (GPC), for reasons stated herein, from \$14,297,443.00 to \$15,047,443.00.

BACKGROUND:

The final budget for the Lowell Modernization Project, file I.D. # 12-0632, was approved by the Board of Education on March 14, 2012 in the amount of \$19,188,360.00. The Guaranteed Project Cost ("GPC") for the Project submitted by the Developer, Arntz-Focon, JV, ("Developer") was \$14, 297,443.00. The funds left remaining in the final approved budget for the Project, after allocation of the GPC equal \$4,890.917.00.

Staff is requesting that the Board of Education approve a transfer of funds from the existing budget for the Project to increase the GPC due to unforeseen conditions and design error, outside the Developer's control.

The redistribution of the Project budget will result in the following GPC, contingency and allowance changes:

Under Article 2.1.5 of Exhibit C, District Allowance is for the exclusive use of the District for additional owner generated Project costs including, but not limited to, owner requested changes in scope is listed as \$480,000.00. The transfer will increase the District Allowance to \$1,230,000.00.

Under Article 2.1 of Exhibit C, the GPC is listed as \$14,297,443,000.00 and following the transfer, will increase to \$15,047,443.00.

The total redistribution of existing Project budget funds is \$750,000.00.

**BOARD OF EDUCATION
OF THE
OAKLAND UNIFIED SCHOOL DISTRICT
RESOLUTION NO. 1213-0044**

**APPROVAL OF INCREASED PROJECT BUDGET EXPENDITURE AND AMENDMENT OF
LEASE BACK AGREEMENTS PERTAINING TO THE LOWELL MODERNIZATION
PROJECT**

WHEREAS, the Board of Education approved Resolution No. 1112-0178 (Enactment No. 12-0907) on March 14, 2012, designating \$19,188,360.00 as the approved project budget for the Lowell Modernization Project ("the Project"); and

WHEREAS, the Board approved (Resolution No.1011-1092) on April 27, 2011, the Lease Leaseback Method of Construction Delivery for and authorized the execution of Site Lease Agreement, Facilities Lease Agreement and Other Acts Relating to the Construction and Modernization of Lowell Middle School (the Project) with Arntz-Focon, JV ("Developer") for the Guaranteed Project Cost (GPC) of \$14,297,443.00; and

WHEREAS, Project unforeseen conditions and design error outside of the Developer's control have occurred resulting in an increase in costs by \$750,000.00.

NOW, THEREFORE, BE IT RESOLVED that the Board hereby approves an \$750,000.00 increase in the GPC with Developer from \$ 14,297,443.00 to \$15,047,443.00, with said increase to be taken from (appropriated) said project budget approved March 14, 2012; and

BE IT FURTHER RESOLVED that the Board authorizes and approves Amendment of the Site Lease Agreement, Facilities Lease Agreement and Other Acts Relating to the Project to the extent necessary to effectuate the increase in the GPC with Developer.

PASSED AND ADOPTED on December 12, 2012, by the Governing Board of the Oakland Unified School District by the following vote:

AYES: Gary Yee, Noel Gallo, Alice Spearman,
Vice President Jumoke Hinton Hodge and President Jody London

NOES: None

ABSTENTIONS: None

ABSENCES: David Kakishiba and Christopher Dobbins

I declare under penalty of perjury that the foregoing resolution was duly passed and adopted on the date and by the vote stated.



Edgar Rakestraw, Jr.
Secretary of the Governing Board
Oakland Unified School District

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By: H

The transfer of existing Project funds will remedy insufficient estimates and unanticipated and/or unforeseen items typical to a project delivery method decided on late in the design process and without the peer review associated with it. The estimated contingency(s) were insufficient based on DSA approved documents and actual site conditions.

FISCAL IMPACT: \$750,000. (Delta between original \$14,297,443.00 GPC and new \$15,047,443.00 GPC that transfers funds from approved \$19,188,360.00 budget.)

RECOMMENDATION:

Approval by the Board of Education of Resolution No. 1213-0044 - **Approval of Increased Project Budget Expenditure and Amendment of Lease Back Agreements Pertaining to the Lowell Modernization Project**, in the amount of \$750,000.00 for the Lowell Modernization Project ("Project") #06004, increasing the Guaranteed Project Cost (GPC), for reasons stated herein, from \$14,297,443.00 to \$15,047,443.00.