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Enactment Date	5/25/22 er



Board Cover Memorandum

To Board of Education

From Curtiss Sarikey, Chief of Staff
Kelly Krag-Arnold, Director, Office of Charter Schools

Meeting Date May 25, 2022

Subject Proposition 51 Application by Cox Academy

Ask of the Board Adoption by the Board of Education of Resolution No. 2122-0230 - Supporting Cox Charter School Filing an Application for Charter School Preliminary Apportionment (Form SAB 50-09) with Office of Public School Construction for the Charter School Facilities Program for Funding to Rehabilitate Certain District-Owned Facilities Located at 9860 Sunnyside Street Utilized by Cox Academy

Background Cox Academy (“Cox”), a conversion charter school, has been located at the 9860 Sunnyside Street campus since it opened in the 2005-06 school year. Cox is in a lease with OUSD for its current space through the end of the 2024-25 school year. Cox shares the campus with REACH Academy, a District-operated school.

The Charter School Facilities Program (“CSFP”), which is administered by the California School Finance Authority and the Office of Public School Construction, makes state funds available to charter schools for the construction of new facilities or rehabilitation of existing school district facilities. The funding was approved by voters as part of Proposition 51 in 2016.

Cox has notified the District of its desire to submit an application for a preliminary apportionment of CSFP funds to rehabilitate the facilities used by Cox (“Cox Facilities”), which are owned by the District. If Cox is granted a preliminary CSFP apportionment, OUSD and Cox would need to, among other things, negotiate and approve a long-term Facilities Use Agreement (“FUA”) in order to receive the apportionment and use the funds for construction at the Cox Facilities.

Discussion This Resolution is required in order for Cox to submit its application. It only grants permission to Cox to apply for the preliminary apportionment; even if Cox is awarded the preliminary apportionment, the District will not be obligated to enter into an FUA.

If OUSD and Cox ultimately negotiated and approved an FUA, Cox would then receive a 50% grant from the California State Finance Authority for the project, and Cox would be responsible for paying the remaining 50%, typically as part of a long-term loan. While Cox would lease the facilities, the District would hold the title to the rehabilitated project.

As in all short-term leases for OUSD facilities, OUSD is currently responsible for major maintenance, capital improvements, and deferred maintenance at the campus. Based on the Jacobs study from 2017, the District will need to invest at least \$2.5 million to address critical building deficiencies (and possibly more than \$12.3 million) over the next few decades. If OUSD and Cox ultimately decide to move forward and rehabilitate the Cox Facilities, Cox would have a right to the facility for term of the lease. However, Cox would assume all maintenance and facilities costs for the Cox Facilities during that time.

Fiscal Impact No direct fiscal impact as the Resolution does not necessitate that the rehabilitation project would move forward.

Attachment

- Resolution No. 2122-0230 - Supporting Cox Charter School Filing an Application for Charter School Preliminary Apportionment (Form SAB 50-09) with Office of Public School Construction for the Charter School Facilities Program for Funding to Rehabilitate Certain District-Owned Facilities Located at 9860 Sunnyside Street Utilized by Cox Academy
- Notification of Intent to File Application for Charter School Preliminary Apportionment (Form SAB 50-09) with Office of Public School Construction for the Charter School Facilities Program for Rehabilitation Funding

**RESOLUTION OF THE
BOARD OF EDUCATION OF THE
OAKLAND UNIFIED SCHOOL DISTRICT**

Resolution No. 2122-0230

Supporting Cox Charter School Filing an Application for Charter School Preliminary Apportionment (Form SAB 50-09) with Office of Public School Construction for the Charter School Facilities Program for Funding to Rehabilitate Certain District-Owned Facilities Located at 9860 Sunnyside Street Utilized by Cox Academy

WHEREAS, the Charter School Facilities Program (“CSFP”), which is administered by the California School Finance Authority and the Office of Public School Construction, makes state funds available to charter schools for the construction of new facilities or rehabilitation of existing school district facilities;

WHEREAS, CSFP funding is now available from Proposition 51, approved by California voters in 2016;

WHEREAS, Cox Academy (“Cox”) is a conversion charter school, that converted from an OUSD to a charter beginning in the 2005-06 school year;

WHEREAS, Cox is authorized by the Alameda County Office of Education to serve grades TK-5. Cox’s charter was renewed for a five-year term from July 2020 to June 2025, which was extended by two years through June 2027 per Assembly Bill No. 130;

WHEREAS, Cox currently uses certain facilities located at 9860 Sunnyside Street, Oakland, CA 94603 (“Cox Facilities”);

WHEREAS, the District is the titleholder and owner of all the property located at 9860 Sunnyside Street, Oakland, CA 94603, including the Cox Facilities;

WHEREAS, Cox desires to submit an application for CSFP funds to rehabilitate the Cox Facilities (see attached); and

WHEREAS, if Cox is granted a preliminary CSFP apportionment, OUSD and Cox would need to, among other things, negotiate and approve a Facilities Use Agreement (“FUA”) in order to receive the apportionment and use the funds for construction at the Cox Facilities.

NOW, THEREFORE, BE IT RESOLVED, the Board of Education (“Board”) agrees with, grants permission for, and approves of Cox submitting an application to the State to request CSFP funding for the purposes outlined herein and directs the Superintendent or designee to take any additional steps necessary (including, but not limited to, entering into additional agreements with Cox) to further this purpose;

BE IT FURTHER RESOLVED, the Board's approval is subject to prior District approval of design and construction plans and Department of State Architect approval of the same if applicable; and

BE IT FURTHER RESOLVED, notwithstanding the Board's approval set forth in this Resolution, no construction at the Cox Facilities may begin unless and until the Board and Cox negotiate and approve an FUA, and nothing in this Resolution shall be read as requiring the parties to successfully negotiate and approve such an FUA.

PASSED AND ADOPTED by the Board of Education of the Oakland Unified School District this 25th day of May, 2022, by the following vote:

PREFERENTIAL AYE: None

PREFERENTIAL NOE: None

PREFERENTIAL ABSTENTION: None

PREFERENTIAL RECUSE: None

AYES: Aimee Eng, VanCedric Williams, Clifford Thompson, Vice President Benjamin "Sam" Davis, President Gary Yee

NOES: None

ABSTAINED: None

RECUSED: None

ABSENT: Mike Hutchinson, Samantha Pal (Student Director), Natalie Gallegos Chavez (Student Director)

CERTIFICATION

We hereby certify that the foregoing is a full, true and correct copy of a Resolution passed at the Meeting of the Board of Education of the Oakland Unified School District held on May 25, 2022.

Legislative File	
File ID Number:	2122-0230
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By:	er

OAKLAND UNIFIED SCHOOL DISTRICT



Gary Yee
President, Board of Education



Kyla Johnson-Trammell
Superintendent and Secretary, Board of Education



Education for Change Public Schools

To: Oakland Unified School District - Board of Directors, Superintendent Office, & Office of Charter Schools

From: Education for Change / Cox Academy

Subject: Notification of Intent to File Application for Charter School Preliminary Apportionment (Form SAB 50-09) with Office of Public School Construction for the Charter School Facilities Program for Rehabilitation Funding

Date: March 30, 2022

Dear OUSD Board of Directors & Superintendent,:

I am writing to notify the superintendent of Oakland Unified School District and its governing board of education that Education for Change intends to file an application for rehabilitation funding for Cox Academy with the Office of Public School Construction (OPSC) under the Charter School Facilities Program (CSFP) as provided under Article 12, Chapter 12.5, Part 10, Division 1, Title 2, commencing with Section 17078.50, et seq., of the Education Code (EC).

Per EC 17078.53 and School Facility Program (SFP) Regulation Section 1859.162, Education for Change & Cox Academy is required to notify the district superintendent and governing board of education of the school district, in which a charter school project will be located and that serves the same grade level as the charter school, and that owns the site of the prospective project, at least (30) days prior to submittal of an Application for Charter School Preliminary Apportionment (Form SAB 50-09) to OPSC. Applications may be submitted beginning May 2, 2022, and ending on June 3, 2022. Education for Change intends to file a Form SAB 50-09 for rehabilitation funding for Cox Academy. This project is located at the district owned site on 9860 Sunnyside St, Oakland, CA 94603, which is a co-shared site with REACH Academy.

Per SFP Regulation Section 1859.163.4, as part of the application process for a CSFP rehabilitation preliminary apportionment, the application must include an agreement between the school district and the charter school for the use of the



Education for Change

Public Schools

facilities to be rehabilitated. The agreement must be approved prior to the submission of the application and must have been discussed and approved at the school district board meeting. Therefore, I respectfully request that Oakland Unified School District begin this process with Education for Change (EfC) if not already completed.

If you have any questions or require additional information about this notification of intent to file, please contact Ernest Peterson at 510-568-7936, or epeterson@efcps.net. You may also contact Sundar Chari, Chief Strategy Officer, at schari@efcps.net. Thank you for your continued partnership and support.

Sincerely,

A handwritten signature in black ink, appearing to read 'EP', is placed above the typed name.

Ernest Peterson
Director of Special Projects
Education for Change

**Agreement between
Cox Academy and Oakland Unified School District (“Agreement”)**

WHEREAS, the Charter School Facilities Program (“CSFP”), which is administered by the California School Finance Authority and the Office of Public School Construction, makes state funds available to charter schools for the construction of new facilities or rehabilitation of existing school district facilities;

WHEREAS, CSFP funding is now available from Proposition 51, approved by California voters in 2016;

WHEREAS, Cox Academy (“Cox”) is a conversion charter school that converted from an OUSD to a charter beginning in the 2005-06 school year;

WHEREAS, Cox is currently authorized by the Alameda County Board of Education to serve grades TK-5;

WHEREAS, Cox’s current charter, which initialed expired June 2025, was extended by two years through June 2027 pursuant to Assembly Bill No. 130;

WHEREAS, Cox currently uses certain facilities located at 9860 Sunnyside Street, Oakland, CA 94603 (“Cox Facilities”);

WHEREAS, the District is the titleholder and owner of all the property located at 9860 Sunnyside Street, Oakland, CA 94603, including the Cox Facilities;

WHEREAS, Cox desires to submit an application for CSFP funds to rehabilitate the Cox Facilities;

WHEREAS, if Cox is granted a preliminary CSFP apportionment, OUSD and Cox would need to, among other things, negotiate and approve a Facilities Use Agreement (“FUA”) in order to receive the apportionment and use the funds for construction at the Cox Facilities;

WHEREAS, on May 25, 2022, the Oakland Unified School District Board of Education (“Board”) approved Resolution No. 2122–0230 - Supporting Cox Charter School Filing an Application for Charter School Preliminary Apportionment (Form SAB 50-09) with Office of Public School Construction for the Charter School Facilities Program for Funding to Rehabilitate Certain District Owned Facilities Located at 9860 Sunnyside Street Utilized by Cox Academy (“Resolution”), attached hereto and incorporated herein by reference; and

WHEREAS, the Resolution states, among other things, that the Board “agrees with, grants permission for, and approves of Cox submitting an application to the State to request CSFP funding for the purposes outlined herein and directs the Superintendent or designee to take any

additional steps necessary (including, but not limited to, entering into additional agreements with Cox) to further this purpose.”

NOW THEREFORE, the Oakland Unified School District (“District” or “OUSD” and Cox (together with OUSD, “Parties”) agree as follows:

1. OUSD agrees with, grants permission for, and approves of Cox submitting an application to the State to request CSFP funding for the purposes outlined in and consistent with the Resolution.
2. No construction at the Cox Facilities may begin unless and until the Board and Cox negotiate and approve an FUA, and nothing in this Agreement shall be read as requiring the parties to successfully negotiate and approve such an FUA.
3. Any recitals and exhibits attached to this Agreement are incorporated herein by reference.
4. Cox shall not assign any of its rights or delegate any of its obligations under this Agreement to any individual or entity without the prior written consent of the District, which consent may be given or withheld in the District’s discretion.
5. Each Party has the full power and authority to enter into and perform this Agreement, and the person(s) signing this Agreement on behalf of each Party has been given the proper authority and empowered to enter into this Agreement.

IN WITNESS WHEREOF, the Parties hereto agree and execute this Agreement and to be bound by its terms and conditions:

Cox

Name: Larissa Adam Signature: 

Position: Superintendent of Schools Date: 5.31.22

OUSD

Name: Dr. Kyla Johnson-Trammell Signature: 

Position: Superintendent Date: June 1, 2022

Approved as to form by OUSD Office of the General Counsel