

LOS ANGELES UNIFIED SCHOOL DISTRICT

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Asst. Administrative Analyst

RESOLUTION 2017-40

BOARD REPORT NO. 065-17/18

**AMENDMENT TO THE FACILITIES SERVICES DIVISION STRATEGIC
EXECUTION PLAN TO REDEFINE AND APPROVE 61 ACCESSIBILITY
ENHANCEMENT PROJECTS AND ALLOCATE \$5 MILLION TO THE RAPID
ACCESS PROGRAM TO ENSURE ALIGNMENT WITH THE DISTRICT'S SELF-
EVALUATION AND TRANSITION PLAN UNDER THE AMERICANS WITH
DISABILITIES ACT**

WHEREAS, District Staff is proposing that the Board of Education (Board) amend the Facilities Services Division (FSD) Strategic Execution Plan (SEP) to redefine and approve 61 accessibility enhancement projects, and allocate \$5,000,000 in funding from the Bond Program Reserve to the Rapid Access Program (RAP), in order to align with the Self-Evaluation and Transition Plan Under the Americans with Disabilities Act (ADA), as approved by the Board on October 10, 2017; and

WHEREAS, The total combined budget for the redefined projects (excluding RAP) is \$236,543,805, and \$152,655,635 of which represents the additional scope being added by this proposal; and

WHEREAS, The Board-approved Self-Evaluation and Transition Plan (Plan) under the ADA furthers the District's efforts to comply with ADA Title II program accessibility requirements, and outlines the District's proposed approach to program access, which considers the characteristics of the District, student population, variety of educational programs, as well as the existing level of accessibility; and

Bond Oversight Committee

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RESOLUTION 2017-40

REDEFINE AND APPROVE 61 ACCESSIBILITY ENHANCEMENT PROJECTS AND ALLOCATION \$5 MILLION TO THE RAPID ACCESS PROGRAM TO ENSURE ALIGNMENT WITH SELF-EVALUATION AND TRANSITION PLAN

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WHEREAS, Since 2014, the District has been proceeding with several components of the Plan based on internal draft plans, including program assessments of each school, high-level surveys of all schools, and in-depth surveys of some schools. At that time, it was believed that an approach that focused on making only necessary and prioritized structural changes to school facilities throughout the District would sufficiently achieve program accessibility and comply with ADA Title II Regulations; and

WHEREAS, Based on the approach discussed above, FSD began developing project definition proposals for accessibility enhancement projects and presenting them to Committee and Board; and

WHEREAS, Through further development of the Plan, including the engagement of a nationally recognized ADA Title II expert, it was determined that the District's approach to providing program accessibility would need to be adjusted and projects previously approved would need to be redefined; and

WHEREAS, The types of scope to be undertaken under the approach outlined in the Self-Evaluation and Transition Plan are consistent with the types of scope originally defined and approved, and the primary difference between the two approaches centers around the level, or extent of accessibility provided -- more programs, spaces, and features of a school must now be made accessible, but at select schools; and

WHEREAS, The scope for each of the 61 accessibility enhancement projects is being redefined, with this proposal, to align with and support implementation of, the District's approach to program access as outlined in the Self-Evaluation and Transition Plan; and

WHEREAS, The accessibility enhancements that will be undertaken at these school sites will focus on ensuring the core spaces and features of the schools are accessible; and that program accessibility is provided to all programs and activities at the school; and

WHEREAS, The Board-approved Self-Evaluation and Transition Plan relies on the continuity of the RAP, which has been identified as a critical component of the Plan. The previous funding allocations to RAP have been allocated to projects and no funding remains for additional projects. The proposed allocation of \$5,000,000 to support RAP projects will help the District's efforts to implement the Self-Evaluation and Transition Plan.

WHEREAS, District Staff has concluded that this proposed FSD-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

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The School Construction Bond Citizens' Oversight Committee (BOC) recommends that the Board of Education amend the FSD-SEP to redefine and approve 61 accessibility

RESOLUTION 2017-40

**REDEFINE AND APPROVE 61 ACCESSIBILITY ENHANCEMENT PROJECTS AND
ALLOCATION \$5 MILLION TO THE RAPID ACCESS PROGRAM TO ENSURE
ALIGNMENT WITH SELF-EVALUATION AND TRANSITION PLAN
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enhancement projects, and allocate \$5,000,000 in funding from the Bond Program Reserve to the RAP, in order to align with the Self-Evaluation and Transition Plan Under the ADA, as outlined in Board Report No. 065-17/18, a copy of which is attached hereto in the form it was presented to the BOC and is incorporated herein by reference.

2. This resolution shall be transmitted to the Los Angeles Unified School District Board of Education and posted on the Bond Oversight Committee's website.
3. The District is directed to track the above recommendation and to report on the adoption, rejection, or pending status of the recommendations as provided in section 6.2 of the Charter and Memorandum of Understanding between the Oversight Committee and the District.

ADOPTED on November 2, 2017, by the following vote:

AYES: 9

ABSTENTIONS: 1

NAYS: 0

ABSENCES: 5

Quynh Nguyen

Quynh Nguyen
Chair

Stuart Magruder

Stuart Magruder
Executive Committee



Board of Education Report

File #: Rep-065-17/18, **Version:** 1

Amendment to the Facilities Services Division Strategic Execution Plan to Redefine and Approve 61 Accessibility Enhancement Projects and Allocate \$5 Million to the Rapid Access Program to Ensure Alignment with the District's Self-Evaluation and Transition Plan Under the Americans with Disabilities Act

November 14, 2017

Facilities Services Division and Division of Special Education

Action Proposed:

Staff proposes that the Board of Education (Board) amend the Facilities Services Division (FSD) Strategic Execution Plan (SEP) to redefine and approve 61 accessibility enhancement projects, as listed in Exhibit A, and allocate \$5,000,000 in funding from the Bond Program Reserve to the Rapid Access Program (RAP), in order to align with the Self-Evaluation and Transition Plan Under the Americans with Disabilities Act (ADA), as approved by the Board on October 10, 2017. The total combined budget increase for the 61 redefined projects (excluding RAP) is \$152,655,635. With this increase the updated total combined budget of these projects is \$236,543,805. The projects are funded by Bond Program funds.

Staff further proposes that the Board authorize the Chief Procurement Officer and/or his designee to execute all instruments necessary to execute the projects including the purchase of equipment and materials in support of facilities program accessibility.

Background:

On October 10, 2017, the Board approved the Self-Evaluation and Transition Plan under the ADA to further District efforts to comply with ADA Title II program accessibility requirements (Board Report No. 124-17/18). The Plan outlined the District's proposed approach to program access, which considers the characteristics of the District, student population, variety of educational programs, as well as the existing level of accessibility. The Plan set specific goals for achieving program access within eight years through facility modifications and operational means.

Since 2014, the District has been proceeding with several components of the Plan based on internal draft plans, including program assessments of each school, high-level surveys of all schools, and in-depth surveys of some schools. At that time, it was believed that an approach that focused on making only necessary and prioritized structural changes to school facilities throughout the District would sufficiently achieve program accessibility and comply with ADA Title II Regulations. Based on this approach, FSD began developing project definition proposals for accessibility enhancement projects and presenting them to the Bond Citizens' Oversight Committee (BOC) and Board.

Through further development of the Self-Evaluation and Transition Plan, including the engagement of a nationally recognized ADA Title II expert, it was determined that the District's approach to providing program accessibility would need to be adjusted and projects previously approved by the Board and considered by the BOC would need to be redefined. The types of scope to be undertaken under the approach outlined in the Self-Evaluation and Transition Plan are consistent with the types of scope originally defined, approved by the Board,

and considered by the BOC. The primary difference between the two approaches centers around the level, or extent of accessibility provided -- more programs, spaces, and features of a school must now be made accessible, but at select schools.

The scope for each of the 61 accessibility enhancement projects is being redefined, with this proposal, to align with and support implementation of, the District's approach to program access as outlined in the Self-Evaluation and Transition Plan. The accessibility enhancements that will be undertaken at these school sites will focus on ensuring the core spaces and features of the schools are accessible; and that program accessibility is provided to all programs and activities at the school. These goals of the Self-Evaluation and Transition Plan for achieving program access can be accomplished by providing various upgrades and installations to all or some of the physical elements/areas listed below:

1. Ramps
2. Handrails
3. Walkways/ Path of Travel
4. Lunch Tables & Furniture
5. Restrooms
6. Stage Lifts
7. Drinking Fountains & Sinks
8. Passenger Loading Zones
9. Parking Areas
10. Elevators
11. Signage
12. Doorways including Door Hardware and Thresholds
13. Service Counters
14. Locker Rooms
15. Assembly Seating
16. Play Area Components
17. Assistive Listening Devices
18. Changing/Dressing Areas

The 61 Board approved projects proposed for redefinition in accordance with the Self-Evaluation and Transition Plan are part of this larger District plan and commitment to comply with the ADA, Section 504, Title II program accessibility requirements and defined provisions of the MCD.

The RAP, which was previously referred to as the On-Demand Program Accessibility Program, was restructured in 2012 in order to make the program sustainable and ensure that minor facility improvements to enable programmatic access for students could be made quickly. RAP projects include minor installments and adjustments to facilities to ensure a barrier-free learning environment as required by the ADA and have a budget cap of \$250,000 per project. Projects are developed by FSD in consultation with the Division of Special Education and school administrators. RAP projects are reviewed prior to commencing work to ensure bond eligibility. To ensure compliance with bond language and laws, some RAP projects may be funded with non-bond sources.

The Board-approved Self-Evaluation and Transition Plan relies on the continuity of the RAP, which has been identified as a critical component of the Plan. The previous funding allocations to RAP have been allocated to projects and no funding remains for additional projects. The proposed allocation of \$5,000,000 to support RAP projects will help the District's efforts to implement the Self-Evaluation and Transition Plan.

Expected Outcomes:

Staff anticipates that the Board will approve the proposal to redefine and approve 61 accessibility enhancement projects to support the implementation of the Self-Evaluation and Transition Plan. These redefined projects align with the approach to achieving program accessibility as outlined in the Board-approved Self-Evaluation and Transition Plan. Moreover, staff anticipates that the Board will approve the allocation of \$5,000,000 to the RAP. The additional funding will allow FSD to continue to address immediate needs for accessibility for students and qualified members of the community over the next two to four years.

Board Options and Consequences:

Approval of staff's proposal will authorize staff to proceed with the expenditure of Bond Program funds to immediately begin the redesign and construction of the accessibility enhancement projects at 61 school sites. In addition, allocating \$5,000,000 of funding from the Bond Program Reserve to the RAP will allow the program to continue to make minor facility improvements to enable programmatic access for students.

If the Board does not approve staff's proposal, FSD will be unable to undertake the additional scope necessary to achieve program accessibility as outlined in the Self-Evaluation and Transition Plan and required for compliance with Section 504 of the Rehabilitation Act and the Americans with Disabilities Act. Moreover, funding will not be available to support additional RAP projects, and students will be challenged by barriers to their learning environment.

Policy Implications:

As outlined in the Board-approved Self-Evaluation and Transition Plan, as classrooms are identified to serve as accessible learning spaces and facility investments are necessary to ensure accessibility, any potential future room changes by Administrators or Principals should be reviewed by the Division of Special Education, the ADA Compliance Manager, and the Facilities Services Division to ensure that accessibility problems are not created as a result of the classroom moves. This will be done in close coordination with school staff to ensure disruptions are minimized.

Budget Impact:

The total combined budget increase for the 61 redefined projects (excluding RAP) is \$152,655,635. With this increase the updated total combined budget of these projects is \$236,543,805. The projects are funded by Bond Program funds, specifically those in the School Upgrade Program targeted for increasing special education facilities on general education campuses (transition program improvements) category of capital need.

The proposed \$5,000,000 allocation to support projects under the RAP will be funded by FSD's Bond Program Reserve. Some RAP projects and some aspects of the accessibility enhancement projects may not be eligible to be funded with Bond Program funds. To ensure compliance with bond language and applicable laws, these projects/scope will be funded with non-bond funds.

Student Impact:

The 61 redefined accessibility enhancement projects were prioritized in large part due to the number of students with qualified disabilities that are currently attending each school. The accessibility enhancement projects at these 61 schools will provide program accessibility to 1,269 students with mobility disabilities and 6,159 students with non-mobility disabilities currently attending the schools (see Exhibit B for detailed list of student eligibility by program for the 61 schools). The projects proposed in this Board Report will remove barriers to program accessibility for students and qualified members of the community, and ensure that all have an equal opportunity to access District programs and activities.

Issues and Analysis:

As a result of the Chanda Smith litigation, in 2003, the District entered into a Modified Consent Decree for the purpose of bringing the District into compliance with the Individuals with Disabilities Education Act (IDEA), and Section 504 of the Rehabilitation Act of 1973. The District has made substantial progress in its efforts to comply with the facilities-related provisions of the MCD, to make its school facilities, services, programs, and activities accessible. Despite the considerable progress made, the Federal Court-appointed Independent Monitor has not released the District from the MCD.

Both Title II of the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act of 1973 impose broad-reaching prohibitions against discrimination on the basis of disability. As to facilities, a key requirement for both the ADA and Section 504 is program accessibility: programs, benefits, services and activities provided by public entities must be accessible to people with disabilities. This means that a qualified individual with a disability is not to be discriminated against because the entity's facilities are inaccessible; however, this does not necessarily mean that all facilities must be accessible. While both laws do require that newly constructed and altered facilities meet stringent accessibility requirements, they do not require that all existing facilities meet those standards, so long as the programs and services provided in those facilities are made accessible to people with disabilities. A program or service can be made accessible by relocating it, providing it in a different manner, or utilizing some other strategy to ensure that people with disabilities have an equal opportunity to benefit from the entity's programs and activities.

The Office of Environmental Health and Safety (OEHS) will evaluate the proposed projects in accordance with the California Environmental Quality Act (CEQA).

Bond Oversight Committee Recommendations:

This item was considered by the School Construction Bond Citizen's Oversight Committee (BOC) at its meeting on November 2, 2017. Staff has concluded that this proposed FSD-SEP amendment is in alignment with Bond Oversight Committee recommendations and will facilitate implementation of the FSD SEP, and therefore, it will not adversely affect the District's ability to successfully complete the FSD-SEP.

Attachments:

Exhibit A - Redefine and Approve Projects to Enhance Accessibility at 61 Schools

Exhibit B - Student Eligibility by Program at 61 Schools

BOC Resolution

Informatives:

None.

Submitted:

10/27/17

RESPECTFULLY SUBMITTED,

APPROVED BY:

MICHELLE KING, Ed.D.
Superintendent

MARK HOVATTER
Chief Facilities Executive
Facilities Services Division

REVIEWED BY:

APPROVED BY:

DAVID HOLMQUIST
General Counsel

BETH KAUFFMAN
Associate Superintendent
Division of Special Education

___ Approved as to form.

REVIEWED BY:

PRESENTED BY:

CHERYL SIMPSON
Director, Budget Services and Financial Planning

GREGORY GARCIA
Director of Project Execution
Facilities Services Division

___ Approved as to budget impact statement.