



# LOS ANGELES UNIFIED SCHOOL DISTRICT

## Board of Education Report

216

<b>Report Number:</b>	051-12/13
<b>Date:</b>	October 9, 2012
<b>Subject:</b>	Amendment to the Facilities Services Division Strategic Execution Plan Define the San Pedro High School Baseball Field Upgrade Project
<b>Responsible Staff:</b>	Mark Hovatter, Interim Chief Facilities Executive
Name	
Office/Division	Facilities Services Division
Telephone No.	213-241-4811

### BOARD REPORT

#### Action Proposed:

Staff proposes that the Board of Education approve an amendment to the Facilities Services Division Strategic Execution Plan to define the San Pedro High School Baseball Field Upgrade Project. This project will create a new 70 foot high barrier, which will ensure compliance with a recent Superior Court decision.

#### Background:

The San Pedro High School baseball field is located on the north side of the campus. It has resided in this particular location for approximately 12 years, along with a 16 foot high perimeter fence that was constructed along the boundary. The distance from home plate to the right field fence is 266 feet, which is less than the California Interscholastic Federation's recommended distance of 320 feet. As a result, baseballs have cleared the fence and entered the property of an apartment building. In 2006, the District constructed a 45 foot high barrier fence as a result of complaints from the property owner. Despite the higher barrier, baseballs continued to enter the apartment property, at times striking the building. In December 2009, the property owner filed suit against the District alleging the existence of a nuisance (*Josh Properties II, LLC v. LAUSD*).

On July 14, 2011, the Superior Court issued an interim order in the case, which ordered the District to "begin the preliminary process necessary to construct a 70 foot fence extending 165 feet from right field to right center field (i.e. a sufficient distance to provide a barrier between defendant's field and plaintiff's building)." Further, this preliminary process was to include "all action necessary to enable construction to commence as soon as practical after the hearing ... date should the Court determine that the nuisance has not been abated." At the Court's direction, LAUSD has secured Division of State Architect (DSA) approval on plans and specifications to erect a barrier that will stand 70 feet tall.

The Superior Court judge conducted an advisory jury trial on this matter on August 3, 2012. The jury found in favor of the plaintiff, six-to-two. As a result, the court issued an order to the District to abate the nuisance.



## LOS ANGELES UNIFIED SCHOOL DISTRICT

### Board of Education Report

During the course of the trial, the District's expert testimony was admitted into evidence that stated raising the barrier to a height of 70 feet would reduce the number of balls clearing the fence by 98 percent. The judge has ruled that the construction of a 70-foot barrier is an acceptable remedy to abate the nuisance.

Construction is anticipated to begin in the fourth quarter of 2012 and conclude in the third quarter of 2013. The project is located in Educational Service Center South and Board District 7 (Dr. Richard Vladovic).

**Expected Outcomes:** If the Board of Education approves the proposed action, staff will proceed with the construction of the proposed San Pedro High School Baseball Upgrade Project in accordance with DSA- approved drawings. Once completed, the District will be in compliance with the associated Superior Court decision.

**Board Options and Consequences:** A “yes” vote will authorize construction of the San Pedro High School Baseball Field Upgrade Project. The project will extend the existing outfield poles and construct a 70 foot net. If the proposed project is not approved, the existing field will be unusable for baseball activities and the District would not be in compliance with the Court order.

**Policy Implications:** These actions are consistent with the District’s commitment to address unmet school facilities needs and provide students with a safe and healthy learning environment.

**Budget Impact:** The project budget is \$365,183, which includes \$25,180 of previously incurred costs related to the initial scoping, planning and design of the project. The proposed project is funded by Bond Program funds. This project will not involve any General Fund expenditures.

**Issues and Analysis:** This project is being proposed as a result of a recent Superior Court decision that determined a nuisance existed, and required it be abated.

**Bond Oversight Committee Recommendations:** This item was considered by the School Construction Bond Citizens’ Oversight Committee (BOC) at its meeting of September 15, 2012. The BOC adopted the attached resolution by a vote of 11 ayes and 0 nays.

Staff has concluded that this proposed SEP amendment will facilitate implementation of the SEP, and therefore it will not adversely affect the District’s ability to successfully complete the SEP.

**Attachments:** BOC Resolution  
**Informative**  
**Desegregation**  
**Impact Statement**



# LOS ANGELES UNIFIED SCHOOL DISTRICT

## Board of Education Report

218

Respectfully submitted,

APPROVED BY:

DR. JOHN E. DEASY  
Superintendent

MICHELLE KING  
Senior Deputy Superintendent  
School Operations

REVIEWED BY:

APPROVED BY:

DAVID HOLMQUIST  
General Counsel

Approved as to form.

MARK HOVATTER  
Interim Chief Facilities Executive  
Facilities Services Division

PRESENTED BY:

TONY ATIENZA  
Director of Budget Services and  
Financial Planning (Interim)

Approved as to budget impact statement.

ROGER FINSTAD  
Director, Maintenance & Operations  
Facilities Services Division

**LOS ANGELES UNIFIED SCHOOL DISTRICT  
SCHOOL CONSTRUCTION BOND CITIZENS' OVERSIGHT COMMITTEE**

**Stephen English, Chair**  
L.A. City Controller's Office

**Pamela Schmidt, Vice-Chair**  
Early Education Coalition

**Maria Cabildo, Secretary**  
LAUSD Student Parent

**Ilene Ashcraft, Executive Committee**  
Tenth District PTSA

**Quynh Nguyen, Executive Committee**  
LAUSD Student Parent

**Bill Brewington**  
Thirty-First District PTSA  
**Paul Escala**  
CA Charter School Association  
**Eva Hain**  
AARP  
**John Hakel**  
Assoc. General Contractors of CA  
**James Herr**  
L.A. Chamber of Commerce  
**Robbie Hunter**  
L.A. County AFL-CIO  
**Stuart Magruder**  
American Institute of Architects  
**Jim Schneiderman**  
L.A. Co. Auditor-Controller's Office  
**Joan Sullivan**  
L.A. Mayor's Office  
**Barry Waite**  
CA Tax Reform Assn.

**Elizabeth Lugo (Alternate)**  
LAUSD Student Parent  
**Becki Nadybal (Alternate)**  
L.A. Mayor's Office  
**Judi Thomas (Alternate)**  
L.A. Co. Auditor-Controller's Office

**Joseph P. Buchman -- Legal Counsel**  
Burke, Williams & Sorensen, LLP  
**Thomas A. Rubin, CPA**  
Oversight Committee Consultant  
**Gary C. Anderson, PhD**  
Bond Administrator  
**Daniel Hwang**  
Administrative Analyst

**RESOLUTION 2012-30**

**BOARD REPORT NO. 051-12/13**

**AMENDMENT TO THE FACILITIES SERVICES DIVISION STRATEGIC EXECUTION  
PLAN TO DEFINE THE SAN PEDRO HIGH SCHOOL BASEBALL FIELD UPGRADE  
PROJECT**

WHEREAS, Staff proposes that the Board of Education approve an amendment to the Facilities Services Division Strategic Execution Plan to define the San Pedro High School Baseball Field Upgrade Project. This project will create a new 70 foot high barrier, which will ensure compliance with a recent Superior Court decision; and

WHEREAS, The San Pedro High School baseball field is located on the north side of the campus. It has resided in this particular location for approximately 12 years, along with a 16 foot high perimeter fence that was constructed along the boundary; and

WHEREAS, The distance from home plate to the right field fence is 266 feet, which is less than the California Interscholastic Federation's recommended distance of 320 feet. As a result, baseballs have cleared the fence and entered the property of an apartment building; and

WHEREAS, In 2006, the District constructed a 45 foot high barrier fence as a result of complaints from the property owner. Despite the higher barrier, baseballs continued to enter the apartment property, at times striking the building. In December 2009, the property owner filed suit against the District alleging the existence of a nuisance (Josh Properties II, LLC v. LAUSD); and

WHEREAS, On July 14, 2011, the Superior Court issued an interim order on the case, which ordered the District to begin the preliminary process necessary to construct a 70 foot fence extending 165 feet from right field to right center field. At the Court's direction, LAUSD has secured Division of State Architect (DSA) approval on plans and specifications to erect a barrier that will stand 70 feet tall. At the Court's direction, LAUSD has secured Division of State Architect (DSA) approval on plans and specifications to erect a barrier that will stand 70 feet tall; and

Bond Oversight Committee

333 S. Beaudry Avenue, 23<sup>rd</sup> Floor Los Angeles, CA 90017 ♦ (T) 213.241.5183 ♦ (F) 213.241.8354 ♦ [www.laschools.org/bond](http://www.laschools.org/bond)

**Resolution 2012-30****Amendment to the Facilities Services Division Strategic Execution Plan to Define the San Pedro High School Baseball Field Upgrade Project****Page 2**

WHEREAS, The Superior Court judge conducted an advisory jury trial on this matter on August 3, 2012. The jury found in favor of the plaintiff, six-to-two. As a result, the court issued an order to the District to abate the nuisance. The judge has ruled that the construction of a 70-foot barrier is an acceptable remedy to abate the nuisance; and

WHEREAS, Construction is anticipated to begin in the fourth quarter of 2012 and conclude in the third quarter of 2013; and

WHEREAS, If the proposed action is approved, staff will proceed with the construction of the proposed San Pedro High School Baseball Upgrade Project in accordance with DSA-approved drawings. The project will extend the existing outfield poles and construct a 70 foot net. If the proposed project is not approved, the existing field will be unusable for baseball activities. Once completed, the District will be in compliance with the associated Superior Court decision; and

WHEREAS, The project budget is \$365,183, which includes \$25,180 of previously incurred costs related to the initial scoping, planning and design of the project. The proposed project is funded by Bond Program funds. This project will not involve any General Fund expenditures; and

WHEREAS, These actions are consistent with the District's commitment to address unmet school facilities needs and provide students with a safe and healthy learning environment; and

WHEREAS, FSD has concluded (1) that amending the FSD SEP to define the San Pedro High School Baseball Field Upgrade Project will facilitate implementation of the FSD SEP; and (2) that the proposed amendment will not adversely affect the District's ability to successfully complete the FSD SEP;

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The School Construction Citizens' Bond Oversight Committee recommends that the Board of Education approve an amendment to the Facilities Services Division Strategic Execution Plan to define the San Pedro High School Baseball Field Upgrade Project, as described herein and in the Board Report No. 051-12/13, a copy of which is attached hereto in the form it was presented to the BOC.
2. This resolution shall be transmitted to the Los Angeles Unified School District Board of Education and posted on the 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.

**Resolution 2012-30****Amendment to the Facilities Services Division Strategic Execution Plan to Define the San Pedro High School Baseball Field Upgrade Project****Page 3**

ADOPTED on September 19, 2012, by the following vote:

AYES: 11

ABSTAIN: 0

NAYS: 0

ABSENT: 4



Steve English  
Chair



Pamela Schmidt  
Vice Chair