

Staff Summary No. 4

Date: November 10, 2010
To: Members of the California School Finance Authority
From: Katrina M. Johantgen, Executive Director
Re: Consideration of Changes to the Form Memorandum of Understanding for the Charter School Facilities Program (Resolution No. 10-37)

Staff is proposing changes to the form Memorandum of Understanding for the Charter School Facilities Program (Program) to allow local governmental entities to hold title to project facilities.

Senate Bill 592 (Romero), enacted in October 2009, authorizes a charter school or a local governmental entity, to hold title to a project school facility financed through the Program, in trust for the benefit of the State public school system. Prior to Senate Bill 592, only a school district could hold title to a project school facility.

Background: Prior to Senate Bill 592, the Authority had developed three program agreements – a memorandum of understanding, a funding agreement and a facility use agreement. The MOU is entered into by the state, the charter school, and the local school district in which the project is located, and it identifies the respective roles and responsibilities under the Program. The funding agreement is between the State and the charter school and includes the payment schedule for the Program obligation. The facility use agreement is between the charter school and the local school district. The board approved additional amendments to those forms of Memorandum of Understanding and Funding Agreement at the March 2010 Board Meeting. The revisions that were made pertained to the new language in SB 592 that allows charter schools to hold title to facilities.

Issue: With the enactment of SB 592, the Authority needs program agreements that reflect the new requirements in Education Code, sections 17078.57, 17078.62, and 17078.63, relating to Program facilities and contemplate title held by a local governmental entity. The proposed form MOU is among the charter school, the local governmental entity and the state. The state will not be developing a form of use agreement. The other parties will be required to develop that document. The proposed, form of memorandum of understanding is attached for review.

Recommendation: Staff recommends the members approve Resolution No. 10-37 approving the proposed form of memorandum of understanding. If approved, the applicable parties will be required to enter into an MOU in substantially such form prior to disbursement of any funds for advance or final apportionment.