

Preconsidered Res. No.

RESOLUTION APPROVING THE FIVE YEAR EDUCATIONAL FACILITIES CAPITAL PLAN FOR FISCAL YEARS 2015 – 2019 SUBMITTED BY THE CHANCELLOR PURSUANT TO SECTION 2590-p OF THE STATE EDUCATION LAW.

The Committee on Finance, to which was referred the above-captioned resolution, respectfully submits to The Council of the City of New York the following:

REPORT

Introduction. At a meeting of the Committee on Finance of the City Council of the City of New York on June 25, 2014, the Committee on Finance received a communication from the Chancellor of the New York City Public Schools (“the Chancellor”), transmitting the Five-Year Educational Facilities Capital Plan for Fiscal Years 2015-2019 (“the Plan”). This resolution constitutes the Council’s approval of the Plan for the City’s public school system for the period from July 1, 2014 until June 30, 2019. Council approval of the Plan is required pursuant to Section 2590-p of the State Education Law (“Section 2590-p”).

Analysis. The State Education Law sets forth a planning process for repair, maintenance and construction work in the City’s public school facilities. Section 2590-p requires the Chancellor to prepare five-year educational facilities capital plans (“plans”). These plans are required to break down the work proposed to be performed on the school facilities into categories called program elements and to provide cost estimates and start and completion dates for design and construction of projects. The current plan ends on June 30, 2014. The Plan, which is the subject of the Chancellor’s Communication and this Resolution, covers the period from July 1, 2014 until June 30, 2019.

Section 2590-p requires the Chancellor to produce a proposed plan by November 1st of the year prior to the start of the plan period. The law requires the plan to be submitted to the Community District Education Councils who are to hold public hearings. The Chancellor then revises the plan and submits a final proposed plan to the City Board (now the Panel for Education Policy) no later than February 1st for its approval. Since the 2002 State School Governance Legislation brought the City School System under increased local control, Section 2590-p now requires the Council and the Mayor to approve the plan before it is final.

In accordance with Section 2590-p, the Chancellor prepared a proposed plan in November 2013 and submitted it to the Community District Education Councils. Amendments to the proposed plan were made and a final proposed plan was submitted to the Panel for Education Policy and approved shortly thereafter. The proposed plan calls for an expenditure of \$12.8 billion over the five-year plan period and relies on State funding for approximately half of that amount.

Over the course of the last several months, the Council has engaged in extensive discussions and negotiations with the Department of Education (“DOE”) over the content and specifics of the proposed plan. These negotiations have resulted in changes to the proposed plan’s content, as well as the addition of more specific information to it. This revised document is the Plan and has been submitted to the Council for approval.

Plan Funding

Total Funding for the Plan: The Plan totals \$12.8 billion, which reflects an increase of \$1.58 billion, or 14.1%, over the fiscal years 2010-2014 plan. The Plan has three major categories, funding for which is outlined below:

- Capacity Program: \$4.35 billion, including \$3.3 billion for the construction of 31,754 new seats and the design of 806 additional seats in the New Capacity Program (6,603 of new seats are rolled over from the fiscal years 2010-2014 plan)
- Capital Investment: \$4.94 billion, including \$3.33 billion for the Capital Investment Program and \$1.66 billion for facility and technology enhancement projects; and
- Mandated Programs: \$3.46 billion for various mandated costs, including \$480 million for replacing light fixtures containing polychlorinated biphenyls (PCBs) and \$650 million for wrap-up insurance.

Other noteworthy components of the Plan include:

- \$210 million towards the Pre-Kindergarten Initiative, a program to support the plan to implement citywide full-day universal pre-kindergarten, for the expansion of pre-kindergarten capacity by approximately 2,100 seats;
- \$480 million for the removal of all Transportable Classroom Units;
- \$133 million to upgrade existing athletic fields;
- \$50 million to upgrade middle school science laboratories;
- \$100 million for pilot program renovating school bathrooms;
- \$480 million for removal of all Transportable Classroom Units.

Council Priorities

In the Plan, the DOE has implemented one of the Council's priorities as set forth in the Council's Preliminary Budget Response relating to increased funding for school bathroom renovations. In the proposed plan presented in February, a total of \$50 million was allocated towards this project. After negotiations with the Council, the DOE has doubled this allocation for a total of \$100 million. These funds will be used to improve bathroom conditions through repairs and upgrades, including fixture replacements, such as sinks, commodes, and urinals; replacing all floor and wall tiles; installing new partitions; replacing bathroom doors; and painting as needed.

Memorandum of Understanding

In addition, as a condition to Council approval of the plan, the Council, the Chancellor, and the Mayor agreed to a Memorandum of Understanding ("MOU"). The MOU attempts to balance DOE's need for flexibility in the planning process required by changing circumstances with the Council's need for specificity with regard to the projects proposed to be undertaken in the Plan's out-years, before the Council's approval of such projects. The MOU accomplishes this by providing for an annual amendment process as well as an amendment if there is a shortfall in State funding relied upon to finance the plan. Specifically, the MOU:

- Requires the annual amendment to include siting and/or location of each project (by building or school district, as appropriate), cost estimates, start dates and completion dates for each project;
- Requires an amendment to be submitted within sixty days of any State budgetary action regarding the City's educational capital facilities that creates a shortfall of funding of 5% or greater for any Plan year;
- Requires each amendment to include an updated Plan showing the projects anticipated over the next year of the Plan, and any changes to such projects that would result from the proposed amendment;
- Requires the DOE and the SCA to meet with each City Council Borough Delegation at least once per year, with meeting to be held after the November proposed amendment and, at the discretion of the Delegation, to meet at least one time after the release of the second proposed amendment;
- Requires the SCA to post on its website the Annual Facilities Survey and any Alternate Site Analysis within 30 days of completion and also requires the SCA to update and post on its website quarterly a report detailing the schedules and budgets for all capital projects, disaggregated by school district, currently in process,; and
- Prohibits actions or expenditures, excluding those facilitating scope and design or those for emergency projects, in furtherance of any projects to be undertaken in the Plan year that is the subject of the annual amendment to be taken prior to approval of the annual amendment by the Mayor and Council.

Agreement between the DOE and the Council

In an effort to increase transparency and assist the Council in its ability to review the progress of specific capital projects, the DOE has agreed to provide the Council with the following information:

- Quarterly reports mandated by Section 521(e) of the New York City Charter in Microsoft Excel;
- In the annual amendment, a list of capital projects that have been completed in the prior fiscal year; and
- An annual report, at the time each proposed amendment is released, regarding the DOE's plan for the removal of Temporary Classroom Units ("TCUs"). Such report shall include: 1) contain the DOE's plan for the removal of TCUs; 2) a list of the TCUs that were removed in the prior fiscal year and a projection of the number and which TCUs will be removed in the following fiscal year, disaggregated by school; and 3) a specific description of the manner in which the DOE has accounted for the decreased capacity caused by each TCU's removal, such as by a redistricting plan or a list of the number of new seats that were or will need to be created and the actual or anticipated location of such new seats.

The Chancellor has provided such a report for Fiscal Year 2014 which reflects the removal of 31 TCUs from 9 schools across 6 school districts. For Fiscal Year 2015, the DOE currently projects

the removal of an additional 8 TCUs at 3 more schools across 3 school districts. The tables below include more specific information about the TCU removal:

TCUs Removed in FY14

DIST	TCU BLDG ID	BUILDING NAME	BUILDING ADDRESS	NO OF TCUS	Anticipated Removal Date
9	X957	I.S. 117 TRANSPORTABLE - X	1865 MORRIS AVENUE	1	Removed
11	X912	P.S. 96 TRANSPORTABLE - X	650 WARING AVENUE	11	Removed
11	X913	P.S. 106 TRANSPORTABLE - X	2120 ST RAYMOND AVENUE	5	Removed
18	K953	P.S. 135 TRANSPORTABLE - K	684 LINDEN BLVD	2	Removed
20	K954	P.S. 170 TRANSPORTABLE - K	7109 6TH AVENUE	2	Removed
28	Q954	P.S. 140 TRANSPORTABLE - Q	166-01 116 AVENUE	4	Removed
29	Q929	P.S. 35 TRANSPORTABLE - Q	191-02 90TH AVENUE	2	Removed
29	Q992	P.S. 176 TRANSPORTABLE - Q	120-45 235TH STREET	2	Removed
29	Q996	P.S. 132 TRANSPORTABLE - Q	132-15 218 STREET	2	Removed
		TOTAL		31	

TCUs to be Removed in FY15

DIST	TCU BLDG ID	BUILDING NAME	BUILDING ADDRESS	NO OF TCUS	Anticipated Removal Date
18	K972	P.S. 208 TRANSPORTABLE - K	4801 AVENUE D	4	Summer 2014
25	Q968	P.S. 163 TRANSPORTABLE - Q	159-01 59TH AVE	2	Summer 2014
30	Q970	P.S. 70 TRANSPORTABLE - Q	30-45 42ND STREET	2	After addition opens in Sept 14
		Total		8	

Description of Above-captioned Resolution. In the above-captioned resolution, the Council would approve the Five-Year Educational Facilities Capital Plan for Fiscal Years 2015-2019.

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Resolution approving the Five-Year Educational Facilities Capital Plan For Fiscal Years 2015 – 2019 submitted by the Chancellor pursuant to Section 2590-p of the New York State Education Law.

By Council Member Ferreras

Whereas, The New York State Education Law Section 2590-p provides for the development and approval, every five years, of a five-year educational facilities capital plan; and

Whereas, The current five-year educational facilities capital plan covers the period from July 1, 2009 until June 31, 2014; and

Whereas, The next five-year educational facilities capital plan will commence on July 1, 2014 and cover the period from July 1, 2014 until June 30, 2019 (“the Plan”); and

Whereas, Pursuant to Section 2590-p of the New York State Education Law, the Chancellor of the New York City Public Schools (“the Chancellor”) prepared a proposed five-year educational facilities capital plan in November 2013 as well as a final proposed five-year educational facilities capital plan in February 2014; and

Whereas, The Panel for Educational Policy approved the final proposed Plan; and Whereas, Over the course of the last several months, the Council has engaged in extensive discussions and negotiations with the Department of Education (“DOE”) over the content and specifics of the proposed and final proposed Plan which have resulted in changes to the Plan’s content and additional specificity; and

Whereas, Additionally, in the Plan, the DOE has implemented one of the Council’s priorities as set forth in the Council’s Preliminary Budget Response relating to increased funding for school bathroom renovations; and

Whereas, In the proposed plan presented in February, a total of \$50 million was allocated

towards this project, however, after negotiations with the Council, the DOE has doubled this allocation for a total of \$100 million; and

Whereas, These funds will be used to improve bathroom conditions through repairs and upgrades, including fixture replacements, such as sinks, commodes, and urinals; replacing all floor and wall tiles; installing new partitions; replacing bathroom doors; and painting as needed; and

Whereas, Moreover, as a condition to Council approval of such Plan, the Council, the Chancellor, and the Mayor have also agreed to a Memorandum of Understanding, effective on the date of adoption of this resolution, which memorializes, *inter alia* the parties' intent to balance the need for specificity with regard to the projects to be undertaken in the plan's out-years with the need for flexibility in the planning process required by changing circumstances by providing for amendments to the Five-Year Educational Facilities Capital Plan; and

Whereas, In May 2014, the Chancellor submitted to the Council the Plan with changes and additional information as agreed upon by the Chancellor and the Council; now, therefore, be it

Resolved, That the Council of The City of New York hereby approves the Five-Year Educational Facilities Capital Plan for Fiscal Years 2015-2019 submitted by the Chancellor pursuant to section 2590-p of the New York State Education Law.