TO: Members of the Board of Trustees  
FROM: Dr. Francisco Rodriguez, Chancellor  
DATE: March 2, 2016  
SUBJECT: BOARD LETTER FOR MARCH 9, 2016 MEETING

Board Meeting Location  
Next week’s Board meeting will be held at the Educational Services Center. The meeting times and locations are as follows:

<table>
<thead>
<tr>
<th>Meetings</th>
<th>Time</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>Convene for Closed Session</td>
<td>4:00 p.m.</td>
<td>Board Room</td>
</tr>
<tr>
<td>Convene for Public Session</td>
<td>6:00 p.m.</td>
<td>Board Room</td>
</tr>
<tr>
<td>Convene for Second Closed Session (if necessary)</td>
<td>Immediately Following Public Session</td>
<td>Hearing Room</td>
</tr>
</tbody>
</table>

Committee of the Whole (Eng, Chair)  
The committee will during the Public Session in the Board Room. The title of the presentation is, Professional Development: Moving the Needle on Student Success

Included in this letter is explanatory information related to agenda items:

- FPD3. Enclosed for your review is background information regarding Board agenda item FPD3, Adopt Resolution Authorizing Implementation of Design-Build System of Project Delivery for the School of Math and Science at Los Angeles Southwest College; Ratifying Request for Qualifications and Proposal Process; and Authorizing the Award of a Design-Build Agreement, which will be presented for Board approval at the March 9th meeting. (Refer to Attachment A)
Confidential Matters
The attached correspondence is confidential and should not be shared with other persons.

- **Office of General Counsel**
  - Enclosed for your review is the District-related litigation report. *(Refer to Attachment B)*
  - Enclosed for your review is the Bond-related litigation report. *(Refer to Attachment C)*
  - Enclosed for your review is an update pertaining to complaints of discrimination/harassment. *(Refer to Attachment D)*
  - Enclosed for your review is an update pertaining to the status on personnel actions. *(Refer to Attachment E)*

- **Human Resources**
  - I will be recommending authorization to send four March 15th letters to three faculty members and one academic administrator for non-renewal of their contracts. The material was sent to you for your review in advance that you may be prepared for the Closed Session discussion on March 9th, 2016. Due to the volume of materials, this document will be sent via U.S. mail. *(Refer to Attachment F)*

Responses to Board Member Inquiries
Human Resources
- Enclosed for your information is a response to a Board member inquiry regarding faculty hiring. *(Refer to Attachment G)*

Let me know should you have any questions regarding the meeting.
To: Board of Trustees  
Francisco C. Rodriguez, Chancellor  
ATTACHMENT A

From: John P. Dacey, Lead Construction Counsel

cc: James D. O’Reilly, Chief Facilities Executive  
Tom Hall, Director, Facilities Planning and Development

Date: February 25, 2016

Re: School of Math & Science – Los Angeles Southwest College; Award of Design-Build Contract – March 9, 2016 Agenda Item Com. No. FPD3

I. ACTION ITEM ON MARCH 9, 2016 BOARD DATE REGARDING SCHOOL OF MATH AND SCIENCE

There is an item on the March 9, 2016 Board Agenda regarding the School of Math and Science project at Los Angeles Southwest College (“Project”).

The item asks the Board to adopt a resolution for the Project that:

1. Ratifies implementation of the Design-Build system of project delivery;
2. Ratifies the Request for Qualifications and Proposals process (Procurement Number CS-03-16-S) conducted by Staff;
3. Authorizes the award of the Design-Build Agreement to a single Design-Build Entity (“DBE”);
4. Authorizes District Staff, specifically the Chancellor and/or the Chief Facilities Executive, and/or the Director, Facilities Planning and Development to enter into a Design-Build Agreement for the Project; and
5. If the aggregate cost for the Project exceeds the amount authorized by the Board, then Staff shall bring the item, and/or the affected part thereof, back to the Board for review, consideration, and/or further action.

II. PURPOSE OF THIS MEMORANDUM

The main purpose of this Memorandum is to set forth Staff’s and the PMO’s findings regarding why the Design-Build delivery method, as authorized by Education Code
sections 81700, et. seq., should be used for the Project.

III. APPLICABLE LAW FOR DESIGN-BUILD CONTRACTS

Education Code sections 81700 et seq. specifically authorize community college districts to utilize the Design-Build delivery method as a safe and cost efficient alternative to competitive bidding because the Legislature has determined that it can produce accelerated completion of projects, provide for cost containment, reduce construction complexity, and reduce exposure to risk for community college districts. The Legislature has also determined that the cost-effective benefits to community college districts are achieved by shifting the liability and risk for cost containment and project completion to the design-build entity.

The foregoing Code sections also require that governing boards of a community college districts shall make written findings that use of the design-build process will accomplish one of the following objectives: (1) reduce comparable project costs; (2) expedite the project's completion, or (3) provide features not achievable through the traditional design-bid-build method.

IV. STAFF’S, PMO’S AND LCC’S FINDINGS OF FACT

District Staff, the PMO, and Lead Construction Counsel (“LCC”) have reviewed these statutory objectives and concluded that the design-build delivery method should be used for the Project because: (1) it will reduce comparable Project costs (2) it will expedite the Project’s completion; and/or (3) it provides features not achievable through the traditional design-bid-build method, including cost containment and shifting the risk of loss for design deficiencies to the Design-Build Entity, the following reasons:

1. “Reduced Comparable Project costs”

   The Legislature has recognized that “the cost-effective benefits” to a community college district under the Design-Build delivery method are achieved by shifting the liability and risk for cost containment and Project completion to the design-build entity”.

   Using the Design-Build delivery method on the Project will achieve this goal/factor, that cannot be achieved using the design-bid-build (hard/low bid) method because: (1) responsibility for errors, omissions, and other deficiencies in the design and construction documents obtained by the District under the design-bid-build (hard/low bid) method from an architect hired by the District are, vis a vis the contractor, the responsibility of the District. Under design-bid-build, a district hires an architect to design a project. The errors, omissions, and other deficiencies in the design and construction documents are usually a predominant cause of additional project costs over and above the original contract award amount because under design-bid-build the contractor has no responsibility for such errors, omissions and/or deficiencies. These errors, omissions and deficiencies translate to increased costs to the District during construction in the following ways:
(1) delay damages; (2) extra work/change order claims by the contractor; and (3) in-fighting between the public entity owner and the architect/engineering team hired by the public entity owner. All of the foregoing also translates into additional time, claims, construction manager time, attorney fees, expert fees, and other significant costs.

Conversely, under the Design-Build delivery method, the contractor, known as the Design Build Entity, must “design and construct” the project. As such, those responsibilities and resultant costs just mentioned as being the District’s responsibility all shift to the Design-Build Entity and have to be borne by the Design-Build Entity. This greatly reduces costs compared to a project procured under the design-bid-build delivery method and achieves the risk shifting benefits contemplated by the statutes. As such, the use of Design-Build for the Project will achieve these cost savings and risk shifting benefits. For these reasons alone, the Design-Build delivery method should be used for the Project.

2. “Expediting the Project’s completion”

Using the Design-Build delivery method will save time and expedite the Project’s completion when compared to the time it will take to design and build the Project using the design-bid-build delivery method (also referred to as hard/low bid contracting).

Based on Staff’s, the PMO’s, and LCC’s experience, if the Project were to be developed and constructed using the design-bid-build delivery method, it would be necessary to use three steps that would take at least 40 months to complete, and most likely several more months. These three steps include: (1) hire Architect and Engineer to design the project and prepare 100% Construction Documents and obtain Division of the State Architect (“DSA”) approval thereon; (2) then pre-qualify contractors to ensure all participants are well-qualified to construct the project; and (3) then advertise for and award a construction contract under the design-bid-build delivery method and have construction start and complete. Each of the three steps would also require Board action adding more time to the overall procurement before construction could begin.

Conversely, using the Design-Build project delivery method provides integration of these procedural steps into one overall procurement step, including ensuring only well qualified contractors will design and build the Project. Based on the PMO’s evaluation, using the Design-Build delivery method, the anticipated total amount of time to design and complete construction of the Project will be reduced to 37 months. Staff and LCC concur.

Therefore, the proposed use of Design-Build is anticipated to meet the requirement of “expediting the project’s completion” because it will take 3 months less to achieve completion of the Project using the Design-Build method versus using the design-bid-build project delivery method. For this reason alone, the Design-Build delivery method should be used for the Project.
3. “Provide features not achievable through the traditional design-bid-build method”

The applicable law expressly recognizes by the language in and the purpose behind the statutes that using the Design-Build delivery method will simplify construction and reduce its complexity when compared to using the low/hard bid delivery method. These are features that are not achievable through the design-bid-build delivery method.

Generally speaking, most “construction complexity” on public works projects comes from incomplete, conflicting, uncoordinated, and/or construction documents that contain errors, omissions, ambiguities, conflicts and other deficiencies. This then creates polarizing positions between the public entity owner and architect, on the one hand, and the contractor and the public entity owner, on the other hand. As these situations are encountered, arguments ensue as to whether the construction documents are or are not incomplete, conflicting, uncoordinated, and/or contain errors, omissions, deficiencies, etc. (all of which posits liability on the public entity) and/or whether or not the contractor knew or should have known (which may shift liability away from the public entity owner and onto the contractor). Such polarizing positions are greatly heightened in projects where a contractor’s expertise could be of great assistance in the design, but which is prohibited by law if the design-bid-build (hard/low bid) method of procurement is used. This increases risk to the public entity on such projects where the design-bid-build (hard/low bid) method of procurement is used.

Conversely, in the experience of District Staff, the PMO and the LCC, where a contractor’s expertise can be used to design and construct such projects as part of a design-build team, construction complexity is significantly reduced as the entity that must build the project also designs it pursuant to performance/project criteria established by the public entity owner. This is what is being done on the Project at Los Angeles Southwest College. The Design-Build Entity has to design and build the Project; it is in its own best interests to ensure that there are no incomplete, conflicting, uncoordinated, errors, omissions, deficiencies, etc. in the design and construction documents. If there are any found during construction, the Design-Build Entity has to bear the risk of loss and cost to overcome same. These are all features that are not achievable under the design-bid-build delivery method. For this reason alone, the Design-Build delivery method should be used for the Project.

V. CONCLUSIONS

As mentioned above, the Design-Build statutes require that the governing board of a community college district make written findings that use of the design-build process will accomplish one of the following objectives: (1) reduce comparable Project costs; (2) expedite the Project's completion, or (3) provide features not achievable through the traditional design-bid-build method.
The foregoing findings by District Staff, the PMO and LCC demonstrate that not only one, but all three of the requirements to use the Design-Build delivery method are present for the Project and warrant use of the Design-Build method for the Project.
RESPONSE TO BOARD MEMBER INQUIRY

Received From: Board Member Sydney Kamlager

Item No. 2015-16 #26

Subject: 2015 Hiring Report

Board Member Kamlager requested information regarding faculty hiring. Attached is the information provided to Ms. Kamlager.
DATE: February 25, 2016

TO: Board of Trustees

FROM: Albert J. Román
Vice Chancellor of Human Resources

SUBJECT: 2015 HIRING REPORT

Recruitment Target for 2015:

The data in this report are provided to the Board of Trustees to summarize the full-time faculty hires for the fall of 2015. Originally, the Human Resources Department was tasked with posting and recruiting for 157 full-time positions in order to meet the District's Full-time Faculty Obligation Number (FON). In total, the District hired 163 full-time faculty in various departments and disciplines, including Business, Counseling, English, Math and Spanish.

Advertisement and Recruitment Activities:

The HR department worked closely with the colleges to post, advertise and recruit for these positions. The recruitment process included advertising in Association of California Community Colleges, Academic Careers, Diverse Issues in Higher Education, Blacks in Higher Education, Hispanics in Higher Education, Asians in Higher Education, Diverse Education, the Chronicle of Higher Education, the CCC Registry, Ed-Join, the Hispanic Association of Colleges and Universities (HACU) and the Los Angeles Times.

In addition, District employees made direct contact with many of our adjunct faculty and other part-time faculty working in surrounding districts to bolster our recruitment efforts and diversify our applicant pools. To further advance the recruitment of these positions, the District participated in the annual Southern California CCC Registry Job Fair where over 1,200 applicants visited with LACCD employees, including the Chancellor, faculty, deans, vice presidents, presidents and vice chancellors. The District representatives were present to share information about the positions, colleges, State Minimum Qualifications, salary and health benefits. Staff also followed up with candidates who showed interest in a variety of hard to fill disciplines. The job fair brought many first time applicants to the District and significantly increased the pool of applicants.

Demographic Report of Faculty Hires:

The following chart provides demographic data for the fall 2015 full-time faculty hires.
It should be noted that individuals voluntarily/self-reported their demographic information as the District cannot require it during the time of recruitment.

The report shows that about 14% of the applicants chose not to report this information. Of the 163 hires who reported, three (3) classified themselves as veterans. In total, 59% of the hires are women compared to 41% of men. The ethnicity breakdown shows that 8.57% identified themselves as Asian Indian, Filipino, Japanese, Vietnamese, or Asian Other. Also, 7.3% identified as African American, 29% Hispanic and 38.65% White.

Further research revealed that 62% of the hires were already working for LACCD as adjuncts. The last two years of comparable data show a similar trend. This is important in understanding and implementing strategic approaches on how to best attract diverse applicant pools.

Demographic Characteristics – Fall 2015 Faculty Hires  
(Prob/Tenure-Track: Total 163)

1. Veteran Status: Veteran (non-Viet Nam): 3

2. Gender
   Female: 96   Male: 67

3. Ethnicity and Racial Category

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<thead>
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<th>Category</th>
<th>Ethnicity</th>
<th>Race</th>
<th>Percent</th>
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</thead>
<tbody>
<tr>
<td>Disabled:</td>
<td>2</td>
<td></td>
<td>28.9%</td>
</tr>
<tr>
<td>Hispanic/Latino</td>
<td>47</td>
<td>25</td>
<td>8.57%</td>
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<td></td>
<td>1.84%</td>
</tr>
<tr>
<td>• Central American</td>
<td>1</td>
<td></td>
<td>0.66%</td>
</tr>
<tr>
<td>• Hispanic Other</td>
<td>15</td>
<td></td>
<td>4.19%</td>
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<tr>
<td>• Mexican, Mexican-American, Chicano</td>
<td>2</td>
<td></td>
<td>0.66%</td>
</tr>
<tr>
<td>• South American</td>
<td>2</td>
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<td>0.66%</td>
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<tr>
<td>Not Hispanic/Latino</td>
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<td>1.84%</td>
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<tr>
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<tr>
<td>• Black or African American</td>
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<tr>
<td>• Filipino</td>
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<td>• Japanese</td>
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<td></td>
<td>3%</td>
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<tr>
<td>• Vietnamese</td>
<td>63</td>
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<tr>
<td>• White</td>
<td>23</td>
<td>14.1%</td>
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*Not Declared / No Response = information not provided by the candidate (left blank)