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Board Cover Memorandum

To Board of Education

From Kyla Johnson-Trammell, Superintendent
Kelly Krag-Arnold, Director, Office of Charter Schools
Madison Thomas, Deputy Director, Office of Charter Schools

Meeting Date March 22, 2023

Subject Proposition 39 Facilities Offers for Aurum Preparatory Academy, Envision Academy of Arts and Technology, and Yu Ming Charter School

Ask of the Board Adoption by the Board of Education of Resolution No. 2223-0202 - Adopting Issuance of Proposition 39 Facilities Offers and Directing Staff to Issue Written Final Offers in Compliance with Proposition 39 for Aurum Preparatory Academy, Envision Academy of Arts and Technology, and Yu Ming Charter School

Background Education Code section 47614 and its interpreting regulations (Cal. Code Regs., tit. 5, section 11969.1 et seq.) (collectively, “Proposition 39”) require a school district to make available, to each eligible charter school operating therein, facilities sufficient for the charter school to accommodate all of the charter schools’ in-district students in conditions reasonably equivalent to those in which the students would be accommodated if they were attending other public schools of the district.

For the 2023-24 school year, either charter schools requested facilities under Proposition 39:

- Aspire College Academy
- Aspire Triumph Technology Academy
- Aurum Preparatory Academy
- Bay Area Technology School
- East Bay Innovation Academy
- Envision Academy of Arts and Technology
- Learning Without Limits
- Yu Ming Charter School

The following charter schools have withdrawn their facilities:

- Aspire College Academy
- Aspire Triumph Technology Academy
- Bay Area Technology School
- Learning Without Limits

On or before February 1, 2023, District staff made Preliminary Offer of Facilities under Proposition 39 to the four charter schools who requested facilities and who had not fully withdrawn such a request.

Discussion

The proposed resolution would make single site final offers to three of the four charter schools eligible to receive such offers.

Name of Charter School	Site to be Offered
Aurum	East Oakland Pride Elementary School
Envision	Franklin Elementary School
Yu Ming	Brookfield Elementary School

A separate resolution is necessary for the final offer for East Bay Innovation Academy as that offer is a multi-site offer.

Fiscal Impact

Positive fiscal impact due to Prop 39 fees collected; amount depends on whether or not the charter school accepts their final offer.

Anticipated revenue estimated to be approximately \$145,141.90 from Aurum Preparatory Academy, calculated as (\$9.53/sq ft) x (15,230 sq ft).

Anticipated revenue estimated to be approximately \$171,780.39 from Envision Academy of Arts and Technology, calculated as (\$9.53/sq ft) x (18,025 sq ft).

Anticipated revenue estimated to be approximately \$420,382.86 from Yu Ming Charter School, calculated as (\$9.53/sq ft) x (44,112 sq ft).

The costs of utilities and custodial are included in the above anticipated revenue.

Attachment(s)

- Resolution No. 2223-0202 - Adopting Issuance of Proposition 39 Facilities Offers and Directing Staff to Issue Written Final Offers in Compliance with Proposition 39 for Aurum Preparatory Academy, Envision Academy of Arts and Technology, and Yu Ming Charter School

**RESOLUTION OF THE
BOARD OF EDUCATION OF THE
OAKLAND UNIFIED SCHOOL DISTRICT**

Resolution No. 2223-0202

Adopting Issuance of Proposition 39 Facilities Offers and Directing Staff to Issue Written Final Offers in Compliance with Proposition 39 for Aurum Preparatory Academy, Envision Academy of Arts and Technology, and Yu Ming Charter School

WHEREAS, on November 7, 2000, California voters passed Proposition 39, which mandates that school districts make facility space available to in-district charter school students, if certain eligibility requirements are met, in a manner that ensures that public school facilities share shared fairly among all students attending traditional and charter schools;

WHEREAS, Education Code section 47614 and its interpreting regulations (Cal. Code Regs., tit. 5, section 11969.1 *et seq.*) (collectively, "Proposition 39") require a school district to make available, to each eligible charter school operating therein, facilities sufficient for the charter school to accommodate all of the charter schools' in-district students in conditions reasonably equivalent to those in which the students would be accommodated if they were attending other public schools of the district;

WHEREAS, Education Code section 47614 requires that the facility offered to a charter school be contiguous, furnished, and equipped;

WHEREAS, Cal. Code Regs., tit. 5, section 11969.2(d) states that "facilities are 'contiguous' if they are contained on the school site or immediately adjacent to the school site";

WHEREAS, Cal. Code Regs., tit. 5, section § 11969.2(d) further states that "[i]f the in-district average daily classroom attendance of the charter school cannot be accommodated on any single school district school site, contiguous facilities also includes facilities located at more than one site, provided that the school district shall minimize the number of sites assigned and shall consider student safety";

WHEREAS, Cal. Code Regs., tit. 5, section 11969.2(d) requires the Board of Education ("Board") to make a finding if a charter school cannot be accommodated at a single site, and adopt a written statement of reasons explaining the finding, should the District offer the charter school facilities on more than one site;

WHEREAS, Cal. Code Regs., tit. 5, § 11969.3 states that "[t]he district is not obligated to pay for the modification of an existing school site to accommodate the charter school's grade level configuration";

WHEREAS, in determining reasonable equivalent facilities and in meeting their Proposition 39 obligations, school districts have the discretion to consider the impact upon existing district programs (see, e.g., *Los Angeles Intern. Charter High School v. Los Angeles* (2012) 209 Cal.App.4th 1348; *Westchester Secondary Charter School v. Los Angeles* (2015) 237 Cal.App.4th 1226);

WHEREAS, District staff has evaluated all feasible facilities options and has considered capacity, condition, location and other relevant factors (using a set of “comparison schools” as a point of reference as required by Proposition 39) in order to make preliminary offers to charter schools that meets Proposition 39 standards for “reasonable equivalence”;

WHEREAS, in making an offer of space, the District attempts to place a charter school applicant on one school site or, when that is not feasible, alternatively attempts to minimize the number of school sites that the charter school applicant is offered;

WHEREAS, a number of charter schools with private or non-District sites have historically made facilities requests to the District under Proposition 39, and ultimately do not complete the process, withdraw their request, or decline the facilities offered to them;

WHEREAS, for the 2023-24 school year, 8 charter schools requested facilities under Proposition 39:

- Aspire College Academy
- Aspire Triumph Technology Academy
- Aurum Preparatory Academy
- Bay Area Technology School
- East Bay Innovation Academy
- Envision Academy of Arts and Technology
- Learning Without Limits
- Yu Ming Charter School;

WHEREAS, for the 2023-24 school year, the following charter schools have notified OUSD that they have fully withdrawn their facilities requests under Proposition 39:

- Aspire College Academy
- Aspire Triumph Technology Academy
- Bay Area Technology School
- Learning Without Limits;

WHEREAS, for the 2023-24 school year, East Bay Innovation Academy cannot be accommodated at a single site and thus is not included herein; and

WHEREAS, on or before February 1, 2023, District staff made Preliminary Offer of Facilities under Proposition 39 to all charter schools who requested facilities and who had not fully withdrawn such a request.

NOW, THEREFORE, BE IT RESOLVED, the Board of the District hereby directs that the following District school sites be offered to the charter schools named below for the 2023-24 school year under Proposition 39:

Name of Charter School	Site to be Offered
Aurum Preparatory Academy	East Oakland Pride Elementary School 8000 Birch St, Oakland, CA 94621
Envision Academy of Arts and Technology	Franklin Elementary School 915 Foothill Blvd, Oakland, CA 94606
Yu Ming Charter School	Brookfield Elementary School 401 Jones Ave, Oakland, CA 94603

BE IT FURTHER RESOLVED, the Board hereby directs the Superintendent or designee to issue Final Offers of Facilities of the above-named District school sites to the above-named charter schools in accordance with Proposition 39 no later than April 1, 2023.

PASSED AND ADOPTED by the Board of Education of the Oakland Unified School District this ____ day of _____, 2023, by the following vote:

PREFERENTIAL AYE:

PREFERENTIAL NOE:

PREFERENTIAL ABSTENTION:

PREFERENTIAL RECUSE:

AYES:

NOES:

ABSTAINED:

RECUSED:

ABSENT:

CERTIFICATION

We hereby certify that the foregoing is a full, true and correct copy of a Resolution passed at the Meeting of the Board of Education of the Oakland Unified School District held on _____, 2023.

Legislative File	
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By:	

OAKLAND UNIFIED SCHOOL DISTRICT

Mike Hutchinson
President, Board of Education

Kyla Johnson-Trammell
Superintendent and Secretary, Board of Education