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**OAKLAND UNIFIED
SCHOOL DISTRICT**
Community Schools, Thriving Students

Memo

To Board of Education

From Dr. Silke Bradford, Director – Quality Diverse Providers
David Montes de Oca - Deputy Chief
Marion McWilliams - General Counsel

Board Meeting Date May 24, 2017

Subject **Approval of Rehabilitation Agreements as it Relates to Charter Schools' Applications for State Funding to Rehabilitate Existing District School Site Facilities**

Action Requested Adoption by the Board of Education of Rehabilitation Agreements with Twelve Charter Schools to enable Charter Schools to apply for California School Facility Program funds to rehabilitate District facilities.

Background and Discussion The passage of Propositions 47, 55 ID and 51 have made \$1.4 billion available to charter schools for the construction of new facilities or rehabilitation of existing school district facilities through the state-funded California School Facility Program ("CSFP"), which is jointly administered by the California School Finance Authority and the Office of Public School Construction. The District has received notice from twelve charter schools of their desire to submit applications for CSFP funds to rehabilitate District school sites already housing the respective charter schools.

Under Education Code section 17078.62(a), if funds are awarded, as a first priority, the existing charter school shall be permitted to use the facility until the charter school no longer needs it for charter school purposes. If the charter school applicant receiving funding is no longer occupying the facility built or rehabilitated under this program, the Education Code establishes as second priority that any qualifying successor charter school may occupy the facility on equal terms as those of the prior charter school occupant.

The charter school would receive a 50% loan from the California State Finance authority for the project, and would be responsible for paying the remaining 50%. The District would hold title to the rehabilitated project in trust for the State.



If the charter school or successor charter school does not take possession of the site, the District can possession as long as it assumes the loan payments, unless it receives a waiver.

The following proposed Rehabilitation Projects are being applied for by local charter schools:

Legistar No.	CHARTER SCHOOL	SITE FOR REHABILITATION
17-1213	Lodestar – Lighthouse Community Schools	King Estates Campus 8251 Fontaine Street
17-1214	East Bay Innovation Academy	Marshall Campus 3400 Malcolm Avenue
17-1215	Cox Academy	E. Morris Cox Campus 9860 Sunnyside Street
17-1216	Urban Montessori	Sherman Campus 5328 Brann Street
17-1217	KIPP Bridge	Lafayette Campus 1700 Market Street
17-1218	Aspire-Berkley Maynard Academy	Golden Gate Campus 6200 San Pablo Avenue
17-1219	Roses in Concrete	John Swett Campus 4551 Steele Street
17-1220	Leadership Public Schools	Castlemont Campus 8601 MacArthur Boulevard
17-1221	Yu Ming	6232 Herzog Street
17-1222	Achieve Academy	Hawthorne Campus 1700 28 th Avenue
17-1223	Learning Without Limits	Jefferson Campus 2035 40 th Avenue
17-1224	Education for Change- Lazaer Academy	Lazaer Site 824 29 th Avenue

Recommendation

Approval by the Board of Education of Rehabilitation Agreements in accordance with applicable law.

Fiscal Impact

N/A.

Attachments

- Rehabilitation Agreements

AGREEMENT FOR THE REHABILITATION OF THE MARSHALL CAMPUS

This Agreement is made by and between Oakland Unified School District, a district duly formed and existing under the law of the State of California ("District") and East Bay Innovation Academy ("Charter School"), a California non-profit public benefit corporation that operates the Charter School, that formed and approved by the District Board of Education under the laws of the Charter School Act of 1992 (Education Code section 47600 et seq.) (the "Act").

RECITALS

WHEREAS, the Charter School Facilities Program, California Education Code section 17078.52 et seq. ("CSFP") provides funding to charter schools for permanent school facilities;

WHEREAS, the passage of Propositions 47, 55 ID and 51 have made \$1.4 billion available to charter schools for the construction of new facilities or rehabilitation of existing school district facilities through the state-funded California School Facility Program ("CSFP"), which is jointly administered by the California School Finance Authority and the Office of Public School Construction;

WHEREAS, the District is the title holder and owner of the property located at 3400 Malcolm Avenue, Oakland, CA 94605, known as the Marshall Campus, in the City of Oakland, County of Alameda;

WHEREAS, Charter School notified the District of its desire to submit an application for CSFP funds to rehabilitate 3400 Malcolm Avenue which is currently used by Charter School to accommodate East Bay Innovation Academy, as permitted by its charter petition and its facilities use agreement. Specifically, Charter School desires to rehabilitate the Marshall Campus as set forth in Exhibit A;

WHEREAS, if Charter School's application is approved, the preliminary benchmarks/timeline for the project is as follows:

- CSFP applications were due to the District on May 5, 2017
- Submission to OPSC due by June 5, 2017
- Office of Public School Construction ("OPSC") staff to review applications for completeness and additional information if needed, beginning June 5, 2017
- CSFA to review for financial soundness, beginning June 5, 2017
- OPSC to issue 15-day letter
- State Allocation Board Approval of preliminary apportionments
- Charter School has 4 years, with one year extension available to obtain DSA, CDE, DTSC, and CEQA approvals
- Charter must submit full funding application for construction apportionment

WHEREAS, pursuant to Section 1859.163.4, Title 2, Division 2, Chapter 3, Subchapter 4, Subgroup 3.5 of the California Code of Regulations, a charter school applying to the CSFP on its own behalf must submit an agreement between the school district and the charter school for the use of facilities to be rehabilitated. The agreement must have been discussed and approved by the Board of Education at a noticed, public board meeting;

NOW THEREFORE, for the covenants and other good consideration had and received, the Parties hereto agree as follows:

1. Charter School represents it will submit to the State of California ("State") Office of Public School Construction an application requesting CSFP funding for rehabilitation of the Marshall Campus. Charter School further acknowledges and agrees that Charter School is responsible for the required match, which is equal to the entitlement awarded.
2. Subject to prior District approval of design and construction plans and Department of State Architect approval of the same if applicable, the District agrees with, grants permission for, and approves of the rehabilitation of the Marshall Site that is contemplated by this Agreement and for which Charter School intends to submit an application to the State to request CSFP funding, and approves Charter School's submission of its application to the State to request CSFP funding for the purposes outlined herein.
3. Waiver. The waiver by the District and/or Charter School of any term, covenant or condition herein contained shall not be deemed to be a waiver of any other term, covenant or condition or any subsequent breach of the same or any other term, covenant or condition herein contained.
4. No Assignment. Charter School shall not assign any of its rights or delegate any of its obligations under this Agreement to any individual or entity without the prior written consent of the District, which consent may be given or withheld in the District's discretion.
5. Prior Agreements. This Agreement contains all of the agreements of the Parties hereto with respect to any matter covered or mentioned in this Agreement, and no prior agreements or understanding pertaining to any such matters shall be effective for any purpose. No provision of this Agreement may be amended or added to except by an agreement in writing signed by the Parties hereto or their respective successors in interest. This Agreement shall not be effective or binding on any party until fully executed by both Parties hereto. Nothing in this Agreement shall supersede or modify the Charter or any MOU between the Parties.
6. Severability. Any provision of this Agreement that proves to be invalid, void, or illegal shall in no way affect, impair, or invalidate any other provision hereof and such other provision shall remain in full force and effect.

7. Choice of Law. This Agreement is subject to the laws and jurisdiction of the State of California. In the event that any court action should be brought in conjunction with this Agreement, it shall be subject to interpretation under the laws of the State of California.
8. Notices. All notices and demands that may be or are to be required or permitted to be given by either party on the other hereunder shall be in writing. All notices and demands by the District to Charter School shall be either hand-delivered with signed proof of receipt or sent by United States Mail, postage prepaid, addressed to Charter School at the Premises, and to the address herein below, or to such other place as Charter School may from time to time designate in a notice to the District. All notices and demands by Charter School to the District shall be either hand-delivered with signed proof of receipt or sent by United States Mail, postage prepaid, addressed to the District at the address set forth herein, and to such other person or place as the District may from time to time designate in a notice to Charter School.

To District at:

Office of Charter Schools
Dr. Silke Bradford, Director
Oakland Unified School District
1000 Broadway, Ste 640
Oakland, California 94607

To Charter School at:

Rochelle Benning
Board Chairman
East Bay Innovation Academy
3400 Malcolm Avenue
Oakland, CA 94605

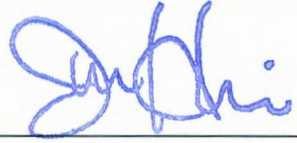
East Bay Innovation Academy

By: _____

Name: _____

Title: _____

Oakland Unified School District

By:  _____

James Harris
President, Board of Education

By:  _____

Dr. Devin Dillon
Interim Superintendent and
Secretary to Board of Education

Approved as to Form and Content

 _____

Marion McWilliams, General Counsel

EXHIBIT A

East Bay Innovation Academy (EBIA)

EBIA Project Descriptions for both Rehabilitation and New Construction (Provided by Charter School)

I. EBIA Rehabilitation Project

EBIA's grades 6-8 are currently located at OUSD's Thurgood Marshall Campus. Marshall served as an elementary school until EBIA moved in. The campus has one building with footprint of 26,492 square feet, with 12 classroom sized rooms, six offices, one multi-purpose room, one kitchen, and one library room. EBIA currently has approximately 354 middle school students at Marshall.

EBIA intends to rehabilitate Marshall in the following manner:

1. Upgrade plumbing, electrical, HVAC, and fire safety systems
2. Remove and replace asbestos floor tile located throughout the school
3. Remodel the bathrooms so they can accommodate older middle school aged children
4. Replace windows to be more energy efficient and to ensure windows close properly
5. Add security cameras to the exterior of the school
6. Improve the facility's exterior lighting to improve safety
7. Repair/replace the roof
8. Repair and paint the building exterior
9. Modify current classrooms and/or add an extension to the existing facility to build out science laboratories needed by Marshall students for middle school science classes.

II. EBIA New Construction Project

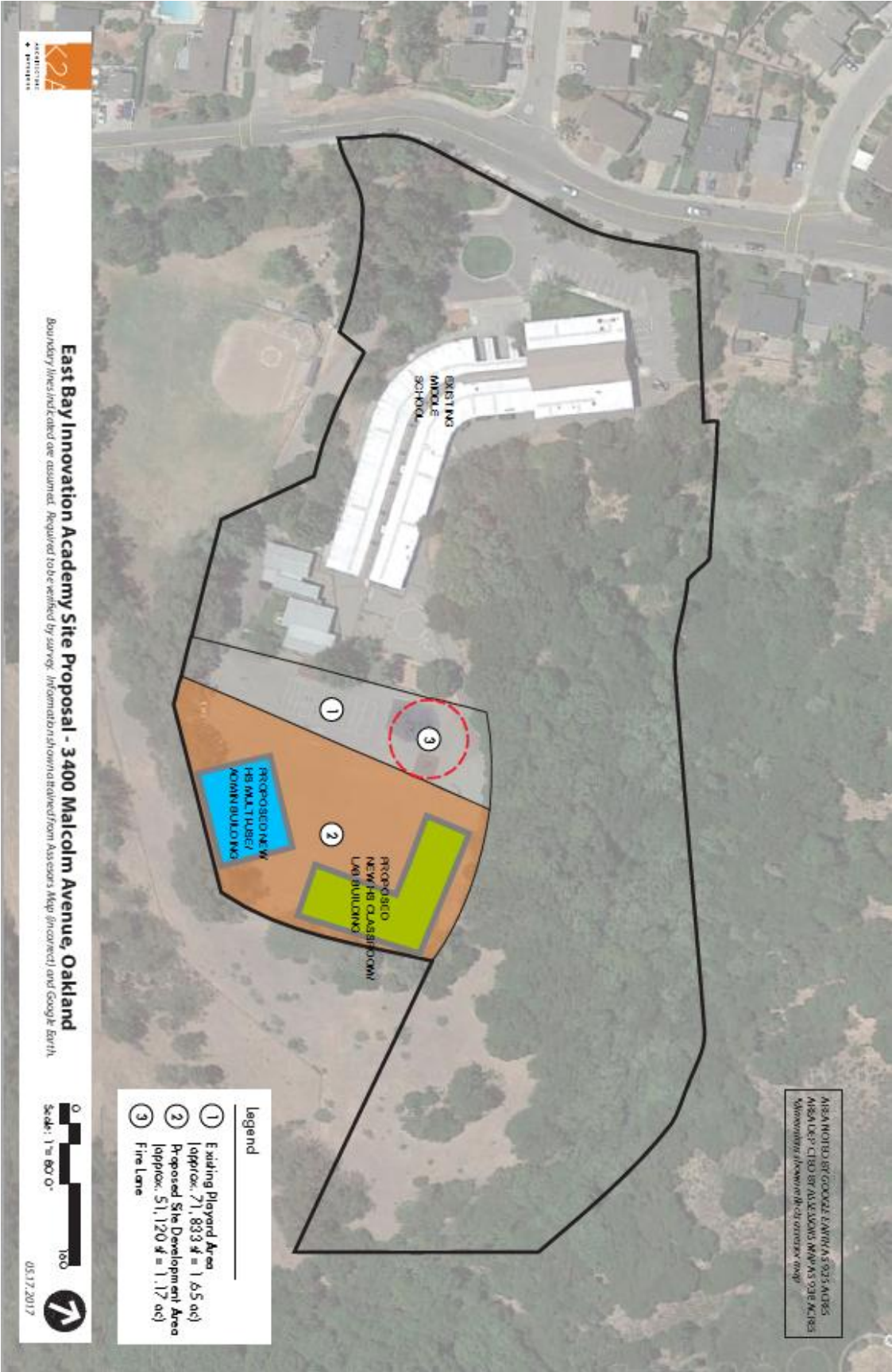
EBIA is a grades 6-12 program, and is currently in its third year of operation serving grades 6-9. In the 2017-2018 EBIA will serve grades 6-10, and by the 2019-2020 school year EBIA will be fully built out serving grades 6-12.

As noted above in the rehabilitation project summary, EBIA serves grades 6-8 at OUSD's Marshall Campus. EBIA's high school program is currently located at OUSD's Roosevelt Campus in the basement of the building under a Prop 39 agreement. The Roosevelt Campus is 8.3 miles from EBIA's middle school program at Marshall. EBIA's school design intended to have all grades located together on one campus. As a result, EBIA needs to build a high school building on the south east portion of the Marshall Campus playground so that we can reunite our school in one location. The building will

support 440 high school students once completed and EBIA's program is fully implemented.

The new building as currently drafted will have the following characteristics:

1. Two story. Gross square footage of 33,299 to support 440 high school students.
2. 13 standard classrooms, 3 science labs, 10 classroom/lab storage closets and/or lab prep spaces.
3. 2 girls, 2 boys, 4 gender neutral student restrooms; additionally 2 multi-use restrooms, and 2 faculty restrooms
4. 4 admin offices, 1 open admin office, 1 admin storage area, 1 server room, 1 kitchen servery and 1 custodial closet.
5. 1 multi-use room, 1 multi-use vestibule, 1 multi-use art/fab lab, 1 multi-use storage space.



AREA NOTED BY GOOGLE EARTH'S 933 ADDRESS
 MISALIGNED BY ALEXANDER MAPS 938 ADDRESS
 (Information derived from Assessor's Map (Infrared) and Google Earth)

East Bay Innovation Academy Site Proposal - 3400 Malcolm Avenue, Oakland

Boundary lines indicated are assumed. Required to be verified by survey. Information derived from Assessor's Map (Infrared) and Google Earth.



05.17.2017

- Legend**
- ① Existing Playground Area
 (approx. 71,833 sq ft = 1.65 ac)
 - ② Proposed Site Development Area
 (approx. 51,120 sq ft = 1.17 ac)
 - ③ Fire Lane

East Bay Innovation Academy
DRAFT PROGRAM DOCUMENT
 HIGH SCHOOL (GRADE 9-12)

Program Area Summary
 February 6, 2017

PROGRAM AREA	#	SIZE	ACTUAL SQ FOOTAGE	EFFICIENCY FACTOR	GROSS SQ FOOTAGE	Comments
1 STANDARD CLASSROOM	13	825	10,725	80%	13,406	3 PER GRADE
2 CLASSROOM STORAGE	4	300	1,200	80%	1,500	1 PER GRADE
3 SCIENCE LAB - BIO	1	1400	1,400	75%	1,867	
4 SCIENCE LAB - CHEM	1	1400	1,400	75%	1,867	GROUPS OF 4
5 SCIENCE LAB - PHYSICS	1	1400	1,400	75%	1,867	OPEN WORKROOM
6 SCIENCE PREP RM	3	185	555	75%	740	
7 SCIENCE STORAGE	3	85	255	75%	340	
8 SERVER/MDF RM/MPOE	1	120	120	80%	150	
9 IDF/TECH SUPPORT	1	0	0	80%	0	
10 BOYS RESTROOMS	2	240	480	80%	600	
11 GIRLS RESTROOMS	2	240	480	80%	600	
12 GENDER NEUTRAL RESTROO	2	80	160	80%	200	
13 GENDER NEUTRAL RESTROO	2	80	160	80%	200	
14 FACULTY-RESTROOMS	2	80	160	80%	200	
15 ADMIN-PRIVATE OFFICES	4	80	320	80%	400	HEAD AND OPS FLOAT BETWEEN MS/HS
16 ADMIN-STORAGE	1	150	150	80%	188	
17 ADMIN - OPEN OFFICE	1	500	500	80%	625	3-S WORKSTATION, FILES, COPIER
18 CUSTODIAN CLOSET	2	80	160	80%	200	
19 MULTHUSE ROOM	1	4000	4,000	80%	5,000	PLATFORM AND MOVABLE WALL
20 MULTHUSE VESTIBULE	1	300	300	80%	375	
21 MULTHUSE STORAGE	1	500	500	80%	625	
22 MULTHUSE FAB LAB/ART	1	1200	1,200	80%	1,500	
23 MULTHUSE RESTROOMS	2	240	480	80%	600	
24 SERVERY/KITCHEN	1	200	200	80%	250	

TOTAL ACTUAL SQUARE FOOTAGE	26,305	79%	
TOTAL GROSS SQUARE FEET			33,299

LIKE TO HAVE:	Students Per			# of Classrooms
	Grade	Total (9-12)	Per Classroom	
Cooking Kitchen	110	440	27.5	16
Music Room			825	SF (OL 30)
Gym & Locker Room				
Computer Lab				

NOTES: