

# EXHIBIT "A"



OAKLAND UNIFIED  
SCHOOL DISTRICT

Community Schools, Thriving Students

OFFICE OF CHARTER SCHOOLS

April 1, 2018

Sandra Barrios  
Achieve Academy  
333 Hegenberger Road, Suite 600  
Oakland, CA 94621

Re: Oakland Unified School District  
Final Offer of Facilities, 2018-2019

Dear Sandra Barrios:

Oakland Unified School District ("District") makes this Final Offer of Facilities to **Achieve Academy** ("Charter School") for the 2018-2019 school year.

The District has carefully considered the Charter School's request for facilities under the criteria set forth in Proposition 39 and its implementing regulations. (Cal. Ed. Code § 47614; Cal. Admin. Code, title 5, §§ 11969.1, *et seq.*) This Final Offer complies with all of the requirements of Proposition 39 and Cal. Admin. Code, title 5, §11969.9(h).

## **A. Procedural History**

The Charter School submitted a Request for Facilities under Proposition 39 pursuant to Cal. Admin. Code, title 5, § 11969.9(c) on or before November 1, 2017. The Charter School's Request for Facilities was based upon a projected in-District ADA of **629.11**<sup>1</sup>.

## **B. 2018-2019 Final Offer to the Charter School**

Education Code § 47614 and its implementing regulations only obligate the District to offer space sufficient to accommodate the Charter School's in-District students. The District's allocation of space is therefore based on the Charter School's projected in-District ADA of **629.11**.

### **1. Methodology**

Cal. Admin. Code, title 5, § 11969.3 governs the identification of the comparison group sites. Subsection (a)(1) states as follows:

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<sup>1</sup> The Charter School appeared to mix up ADA Projection information entered into tables in Appendix I of the Charter School's Request for Facilities form. In-District Projected ADA was reported as higher than the overall Total Projected ADA for all grade levels except for TK. Therefore, the District considered the lower Projected ADA number for each grade level as the Projected In-District ADA and the higher Projected ADA number as the Total Projected ADA.

Comparison Group:

The standard for determining whether facilities are sufficient to accommodate charter school students in conditions reasonably equivalent to those in which the students would be accommodated if they were attending public schools of the school district providing facilities shall be a comparison group of district-operated schools with similar grade levels. If none of the district-operated schools has grade levels similar to the charter school, then a contiguous facility within the meaning of subdivision (d) of section 11969.2 shall be an existing facility that is most consistent with the needs of students in the grade levels served at the charter school. The district is not obligated to pay for the modification of an existing school site to accommodate the charter school's grade level configuration.

Cal. Admin. Code, title 5, § 11969.3(a)(2) governs the determination of the comparison group schools for districts whose students live in high school attendance areas:

The comparison group shall be the school district-operated schools with similar grade levels that serve students living in the high school attendance area, as defined in Education Code section 17070.15(b), in which the largest number of students of the charter school reside. The number of charter school students residing in a high school attendance area shall be determined using in-district classroom ADA projected for the fiscal year for which facilities are requested.

The District must first identify the high school attendance area in which the largest number of in-District Charter School students reside. Education Code §17070.15(b) defines “attendance area” as “the geographical area serving an existing high school and those junior high schools and elementary schools included therein.” Based on the information provided in the Charter School’s facilities request, the District has determined that the greatest number of Charter School students live within the **Fremont High School** attendance area.

**Table 1: High School Attendance Area**

Grade Span	Attendance Area	# of Students	% of Students in Grade Span
TK-5	<b>Fremont</b>	<b>521</b>	<b>77.2%</b>
	Castlemont/CCPA/Madison	74	11.0%
	Oakland High	37	5.5%
	Skyline	22	3.3%
	Outside Of Oakland	11	1.6%

	McClymonds	9	1.3%
	Oakland Tech	1	0.1%

Therefore, the comparison group schools for the Charter School are as follows:

- Bridges Academy, Global Family School, Horace Mann Elementary School, International Community Elementary School, Think College Now Elementary School, and Melrose Leadership Academy

The Charter School’s March 1, 2018 letter does not dispute the District’s methodology used to identify the comparison group schools.

**2. Facilities Offered:**

The District offers the Charter School facilities at the following school site:

**Hawthorne Elementary School campus  
 1700 28<sup>th</sup> Avenue, Oakland, CA 94601**

The Charter School’s allocation of space is as follows:

**Table 2a: Allocation of Exclusive Use Teaching Station Space to Charter School by School Site**

School Site	# of Teaching Stations/ Specialized Classrooms	Total Sqft
Hawthorne	31	25,826

**Table 2b: Allocation of Exclusive Use Teaching Station Space to Charter School by Room**

School Site	Room # (per MKThink site plan)	Sqft
Hawthorne	A-1-12	782
Hawthorne	A-1-15	772
Hawthorne	A-1-18	750
Hawthorne	A-1-24	713
Hawthorne	A-1-13	758
Hawthorne	A-1-19	973
Hawthorne	A-1-32	758
Hawthorne	A-1-33	760

Hawthorne	A-1-43	741
Hawthorne	P4-1-1	782
Hawthorne	P5-1-1	782
Hawthorne	P6-1-1	782
Hawthorne	P7-1-1	782
Hawthorne	P8-1-1	782
Hawthorne	Q-1-1	781
Hawthorne	R-1-1	864
Hawthorne	S-1-1	864
Hawthorne	T-1-1	713
Hawthorne	Z-1-1	899
Hawthorne	Z-1-2	899
Hawthorne	Z-1-3	899
Hawthorne	Z-1-4	899
Hawthorne	Z-1-5	899
Hawthorne	Z-1-6	899
Hawthorne	Z-2-13	899
Hawthorne	Z-2-14	899
Hawthorne	Z-2-15	899
Hawthorne	Z-2-16	899
Hawthorne	Z-2-17	899
Hawthorne	Z-2-18	899
Hawthorne	Z-2-19	899

**Table 2c: Allocation of Non-Teaching Space (NTS) to Charter School by School Site**

Site Name	Projected ADA at Site	Achieve Projected ADA as % of Total Site ADA	NTS Allocation (Total Site NTS)	Exclusive Use Allocation	
				Interior	Exterior
Hawthorne	629.11	100%	144,582	21,955	122,627

The Charter School’s access to non-teaching space, which includes all non-classroom space (both in and outside of buildings and portables) at the site, is based upon the Charter School’s per-student entitlement to each category of space at the comparison group schools, and calculated upon the proportion of in-district ADA to the total ADA at the Site. The specific allocation of specialized teaching space and non-teaching space to the Charter School is set forth in subsections 3(c) and 3(d) below.

**3. Reasonable Equivalence Methodology:**

In order to determine whether facilities are “reasonably equivalent,” the District compares the proposed facilities to District-operated schools constituting the comparison group school. The District has considered capacity, condition, location, and other relevant factors, using as a point of reference the comparison group schools identified above, to allocate a facility to the Charter School that meets Proposition 39 standards for “reasonable equivalence.”

**a. Condition:**

With respect to “condition,” the District may allocate facilities to the Charter School that are comparable to the comparison group in the following ways:

<b>No.</b>	<b>Facility Characteristic – Capacity</b>	<b>Regulatory Authority</b>
1.	Ratio of teaching stations to average daily attendance (“ADA”)	C.C.R., tit. 5, § 11969.3(b)(1)
2.	Specialized classroom space if such facilities are available to the district comparison group (e.g., science laboratories)	C.C.R., tit. 5, § 11969.3(b)(2)
3.	Non-teaching space, which the district can share with the charter school (e.g., administrative, kitchen, multi-purpose, and/or play area space)	C.C.R., tit. 5, § 11969.3(b)(3)
4.	School site size	C.C.R., tit. 5, § 11969.3(c)(1)(A)
5.	Condition of interior and exterior surfaces	C.C.R., tit. 5, § 11969.3(c)(1)(B)
6.	Mechanical, plumbing, electrical, and fire alarm systems in condition and conformity to applicable law	C.C.R., tit. 5, § 11969.3(c)(1)(C)
7.	Availability and condition of technology resources	C.C.R., tit. 5, § 11969.3(c)(1)(D)
8.	Overall learning environment qualities (e.g., lighting, noise mitigation, and/or size for intended use)	C.C.R., tit. 5, § 11969.3(c)(1)(E)
9.	Furnishings and equipment	C.C.R., tit. 5, § 11969.3(c)(1)(F)
10.	Condition of athletic fields and/or play area space	C.C.R., tit. 5, § 11969.3(c)(1)(G)

The District has also evaluated data on the condition of the facilities at the comparison school group based on site information available from the District’s Asset Management and Facilities Master Plan. A summary of this analysis, found in the table below, shows that the site offered to the Charter School is reasonably equivalent to the comparison school group in every facility characteristic category. Additional information regarding each facility can be found in [Exhibit A](#). Based on the data available to the District, the District has concluded that the facilities offered to the Charter School meet the reasonable equivalence standards under the category of “condition.”

**Table 3: School Site Condition Analysis**

School/Site Type		Offer Site	Comparison School Site				
School/Site		Hawthorne	Cesar Chavez	Horace Mann	Jefferson	Maxwell Park	Melrose
Size of Site (acres)		3.9	7.7	2.6	4.3	3.4	2.5
Surfaces*	Physical Condition (Interior)	E	E	E	E	G	E
	Circulation & Wayfaring (Interior)	E	E	E	E	E	G
	Physical Condition (Exterior)	E	E	E	E	E	E
	Circulation & Wayfaring (Exterior)	E	E	E	E	E	E
Mechanical, plumbing, electrical, and fire alarm systems conformity with applicable codes		Y	Y	Y	Y	Y	Y
Tech Infrastructure		Y	Y	Y	Y	Y	Y
Safe Learning Environment		Y	Y	Y	Y	Y	Y
Furnishings/Equipment		Y	Y	Y	Y	Y	Y
Athletic Fields/Play Area Space		Y	Y	Y	Y	Y	Y

\* Each Site Plan included Surface information for each building at the site. For sites with multiple buildings, these ratings were averaged, taking into consideration the relative size of each building to determine the overall site surface condition (E=Excellent, G=Good, F=Fair, P=Poor)

The District conducted its analysis of the condition of the comparison group schools under the criteria set forth in the Proposition 39 regulations, supported by relevant data. Therefore, the District rejects the Charter School’s boilerplate contention in its March 1, 2018 letter that the District failed to conduct the comparison group school condition analysis in accordance with the Proposition 39 regulations.

**b. Teaching Stations:**

With respect to teaching stations, Cal. Admin. Code title 5, § 11969.3(b)(1) states that “[f]acilities made available by a school district to a charter school shall be provided in the same ratio of teaching stations (classrooms) to ADA as those provided to students in the school district attending comparison group schools.”

The District followed the methodology set forth by the Court in *California Charter Schools Assn. v. Los Angeles Unified School District* (2015) 60 Cal.4th 1221 in determining the teaching station allocation to the Charter School. The District consulted, in accordance with Cal. Admin. Code tit. 5, § 11969.3(b)(1), the “classroom inventory pursuant to Sections 1859.31 and 1859.32 ... on the Form SAB 50-02.” (See, Cal. Admin. Code tit. 2, s 1859.30.) A copy of Form SAB 50-02 is linked as [Exhibit B](#). Although the Proposition 39 regulations require the District to reference the classroom inventory referenced on Form SAB 50-02, the District notes that Form SAB 50-02 lists the aggregate classroom inventory by grade range within each high school attendance area, without breaking down inventory by school. Therefore, the District has taken the additional step of creating an updated inventory of actual room utilization at each comparison group school. That inventory is linked as [Exhibit C](#).

The District is permitted to evaluate the utilization of classrooms at the comparison group schools under *California Charter Schools Association*, *supra*, as the California Supreme Court held in that case that:

According to the District, only classrooms in the inventory that are “provided to” noncharter public school K–12 students in the District must be counted. On this view, unbuilt classrooms, classrooms already used by charter schools, and classrooms dedicated to preschool, adult education, or other uses besides K–12 education are not “provided to” such K–12 students and thus need not be counted in determining the ADA/classroom ratio under section 11969.3(b)(1). [¶] We agree with this reading of section 11969.3(b)(1). (*Id.* at 1239.)

Therefore, the District not only met, but exceeded, the requirements for determining the teaching station-to-ADA ratio under Cal. Admin. Code tit. 5, § 11969.3(b)(1). The District went beyond the classroom inventory contained in Form SAB 50-02, and manually created an inventory of classroom utilization at each of the comparison group schools, to determine the number of classrooms “provided to” District students at the comparison group schools. From that list, the District determined the ADA to teaching station ratio at the comparison group school as **24.03 per teaching station**.

**Table 4: Comparison Group Schools Serving Grades TK-5 Located in High School Attendance Area**

School	ADA Teaching Station Ratio
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Bridges Academy	25.53
Global Family School	24.41
Horace Mann Elementary School	24.43
International Community Elementary School	21.79
Think College Now Elementary School	24.83
Melrose Leadership Academy	23.19
<b>AVERAGE</b>	<b>24.03</b>

Applying that ratio to the Charter School’s projected ADA of **629.11**, the District determined that the Charter School was entitled to an allocation of **27 (rounded up from 26.18)** teaching stations.

**Table 5: Calculation of Exclusive Use General Education Classroom Allocation**

<b>Grade Span(s)</b>	<b>ADA (In-District)</b>	<b>Average ADA Teaching Station Ratio</b>	<b>General Education Classrooms (ADA / Average ADA Teaching Station Ratio)</b>
TK-5	629.11	24.03	27 (26.18)

The District created and utilized an updated inventory of actual room utilization at each comparison group school to determine the number of teaching stations “provided to” students in the comparison group schools, in accordance with the Proposition 39 regulations. Therefore, the District rejects the Charter School’s boilerplate contention in its March 1, 2018 letter that the District failed to follow the methodology set forth in the Proposition 39 regulations for determining the number of teaching stations to allocate to the Charter School. The District also based its ADA projections for request year 2018-2019 upon data provided by its enrollment office. The District rejects the Charter School’s contention in its March 1, 2018 letter that the Charter School is better able to project ADA at the District’s comparison group schools based on CDE enrollment data from 2016-2017. Also, since the District relied upon its updated inventory of teaching spaces “provided to” District students at the comparison group schools, it relied upon more current information than the information cited in the Charter School’s March 1, 2018 letter.

**c. Specialized Teaching Space:**

Cal. Admin. Code title 5, § 11969.3(b)(2) states as follows with respect to the allocation of specialized teaching space to Charter Schools:

If the school district includes specialized classroom space, such as science laboratories, in its classroom inventory, the space allocation provided pursuant to paragraph (1) of subdivision (b) shall include a share of the specialized classroom space and/or a

provision for access to reasonably equivalent specialized classroom space. The amount of specialized classroom space allocated and/or the access to specialized classroom space provided shall be determined based on three factors:

- (A) the grade levels of the charter school's in-District students;
- (B) the charter school's total in-District classroom ADA; and
- (C) the per-student amount of specialized classroom space in the comparison group schools.

During the 2017-18 school year, OUSD contracted with a third party vendor to conduct an educational adequacy assessment at its facilities. As part of this assessment, the vendor collected updated specialized teaching space data, which included the approximate square footage of each space. Although this data has not yet been finalized, it was used to help determine the charter school's specialized teaching space allocation based on "the per-student amount of specialized classroom space in the comparison group schools" as shown in the table below. Detailed data related to the specific specialized teaching space present at comparison sites and sites where the charter school has been offered space are provided in [Exhibit D](#).

**Table 6: Calculation of Specialized Teaching Space (STS) Allocation<sup>2</sup>**

STS Type	STS Existing at Offer Site(s) (Sqft)	STS Entitlement (Sqft)	Exclusive Use STS Already Included in Classrooms Offered (Sqft)	Over(+)/ Under(-) Allocation of STS Entitlement (Sqft)
Art Classroom	0	0	0	0
Art Technology Lab	0	0	0	0
Computer Laboratory	0	592	0	-592
CTE Classroom (Related to Lab Instruction)	0	0	0	0
CTE Family/Consumer Science Multipurpose Lab	0	0	0	0
CTE Industrial Education Laboratory	0	0	0	0
CTE Technology Education Laboratory	0	0	0	0
CTE General Laboratory	0	0	0	0

<sup>2</sup> Square footage figures included in this table are approximate and were taken from the Jacobs data found in [Exhibit E](#). All other square footage figures found in this document were taken from MKThink data ([Exhibit F](#)) and are more precise. Therefore, discrepancies in square footage figures may exist between this and other tables found in this letter.

Drama Classroom	0	0	0	0
Music Room (Elementary School)	0	275	0	-275
Music Room, Band	0	0	0	0
Music Room, Choir	0	0	0	0
Science Classroom	0	908	0	-908
Science Laboratory	0	0	0	0
SpEd Life Skills Lab	0	0	0	0
<b>Total</b>	<b>0</b>	<b>1,775</b>	<b>0</b>	<b>-1,775</b>

\* Calculated by subtracting STS Entitlement from Exclusive Use STS Included in Classrooms Offered

The District provides the Charter School with specialized teaching space in the form of an allocation of building space and, if necessary, shared space. The District’s updated calculation of the Charter School’s entitlement to specialized teaching space shows that the Charter School is entitled to an additional 1,775 sqft of specialized teaching space. That additional specialized teaching space is covered in the allocation of 2 additional teaching space classrooms. The Charter School is also being offered 2 additional classrooms above its Proposition 39 entitlement as these classrooms were previously included in the Preliminary Offer to the Charter School, and are not being withdrawn by the District in this Final Offer.

The District has used the updated information provided by its third-party vendor to obtain an updated inventory of the specialized teaching space at the comparison group schools and, where, necessary, has re-evaluated its calculation of the Charter School’s per-pupil entitlement to specialized teaching space. Although the updated third-party data shows that the Charter School is entitled to less specialized teaching space than allocated in the preliminary offer, the District has elected not to remove space from the allocation. Therefore, the District rejects the Charter School’s boilerplate contention in its March 1, 2018 letter that the District’s offer is “completely void of any discussion of the different amounts (square footage) and types of specialized classroom space that exist at the comparison schools ...” The District’s methodology in inventorying, measuring and allocating specialized teaching space complies in all respects with the Proposition 39 regulations.

**d. Non-Teaching Space:**

With respect to non-teaching space, Cal. Admin. Code title 5, § 11969.3(b)(3) states as follows:

The school district shall allocate and/or provide access to non-teaching station space commensurate with the in-district classroom ADA of the charter school and the per-student amount of non-teaching station space in the comparison group schools. Non-

teaching station space is all of the space that is not identified as teaching station space or specialized classroom space and includes, but is not limited to, administrative space, kitchen, multi-purpose room, and play area space. If necessary to implement this paragraph, the district shall negotiate in good faith with the charter school to establish time allocations and schedules so that educational programs of the charter school and school district are least disrupted.

The District calculated the amount of non-teaching space at the comparison group schools (Table 7a) and determined this space as a function of Sqft/ADA as shown in Table 7b.

**Table 7a: Calculation of Non-Teaching Space (NTS) at Comparison Group Schools**

Comparison School(s)	Site Acreage (ground level) <sup>1</sup>	Ground Level Space (sqft) <sup>2</sup>	Non-Ground Level Space (sqft) <sup>3</sup>	Total Site Area (sqft) <sup>4</sup>	Classroom Space (sqft) <sup>5</sup>	Site NTS (sqft) <sup>6</sup>
Int'l Community/Think College Now	7.71	335,848	21,469	357,317	36,320	320,997
Horace Mann	2.63	114,563	9,385	123,948	15,642	108,306
Global Family	4.29	186,872	8,138	195,010	36,910	158,100
Melrose Leadership K-8	3.40	148,104	14,890	162,994	19,589	143,405
Bridges	2.47	107,593	4,530	112,123	22,831	89,292

Sources: <sup>1</sup> "Site List" [Exhibit F](#); <sup>2</sup> Site Acreage x 43,560 (sqft/acre); <sup>3</sup> "Room List" [Exhibit F](#) (Sqft of all non-ground floor level rooms); <sup>4</sup> Ground Level + Non-Ground Level Space; <sup>5</sup> "Room List" [Exhibit F](#) (Sqft of all classrooms ≥600 sqft + attached classroom storage spaces included in Prop 39 final offers); <sup>6</sup> Total Site Area - Classroom Space

**Table 7b: Non-Teaching Space (NTS) Sqft/ADA at Comparison Group Schools**

Comparison School(s)	Total Site NTS (sqft)	Percent of Site Classrooms Occupied by District*	District Share of Site NTS (sqft)	18-19 Projected ADA	Total District NTS (sqft/ADA)
Int'l Community/Think College Now	320,997	100.00%	320,997	569.25	563.89
Horace Mann	108,306	100.00%	108,306	311.33	347.88
Global Family	158,100	52.63%	83,211	420.65	197.81
Melrose Leadership K-8	143,405	100.00%	143,405	507.61	282.51
Bridges	89,292	100.00%	89,292	424.62	210.29

<b>Comparison Group NTS Sqft/ADA</b>	<b>Minimum</b>	197.81
	<b>Median</b>	282.51
	<b>Maximum</b>	563.89

\* Based on the number of classrooms not offered or occupied by charter schools at the site divided by the total number of classrooms at the site. For sites not shared with or offered to charter schools as part of Prop 39, this number will be 100%.

A supplement to Table 7a, showing the calculation of non-teaching space at the comparison groups schools, is linked as [Exhibit F](#).

The District then considered the Sqft/ADA ratio for each category of space at the comparison group school as part of its reasonable equivalence analysis.

**Table 8: Calculation of Non-Teaching Space (NTS) for Charter School at Hawthorne**

Site Name	Hawthorne
18-19 Projected Site ADA	629.11
% of 18-19 Projected Site ADA	100.0%
NTS Type	Sqft
Admin/Office/Conference	1,974
MPR/Auditorium/Cafeteria/Gym	4,241
Library	855
Other Interior NTS	14,885
Total Interior NTS	21,955
Exterior NTS	122,627
Total NTS	144,582
Average Sqft/ADA	229.82

Following is a summary of the Sqft/ADA ratios of non-teaching space at the comparison group schools, compared to that of the Charter School's allocation:

**Table 9: Non-Teaching Space (NTS) Actual Sqft/ADA vs. Comparison School Group**

Offer Site	Charter Projected In-District ADA	NTS Sqft	NTS Sqft/ADA
Hawthorne	629.11	144,582	229.82
<b>Total Allocated</b>		<b>144,582</b>	<b>229.82</b>
<b>Allocation if Based on Comparison School Group</b>		<b>Minimum</b>	124,447
			197.81

	<b>Median</b>	177,730	282.51
	<b>Maximum</b>	354,751	563.89

The District calculates the Sqft/ADA for non-teaching space to determine the reasonable equivalence standards for this category of space at the comparison group schools. A charter school’s allocation is considered to fall within reasonable equivalence standards if it falls within the minimum/maximum Sqft/ADA ratios at the comparison group schools.

The District also will offer the Charter School reasonably equivalent Furnishings and Equipment for **629.11** ADA.

The specific space offered to the Charter School in this Final Offer is depicted in the diagrams attached as **Exhibit G**.

The District complied with the methodology set forth in the Proposition 39 regulations governing the identification, measurement and allocation of non-teaching space, and therefore rejects the Charter School’s boilerplate argument in its March 1, 2018 letter that “[t]he District’s allocation of non-teaching space to Achieve in the Preliminary Proposal does not comply with Prop. 39 or its Implementing Regulations in several respects ...”

**4. Response to Charter School’s March 1, 2018 Letter**

In compliance with Cal. Admin. Code, title 5, §11969.9(h), the District addresses the Charter School’s response to the District’s preliminary offer of facilities.

The District has responded to the Charter School’s arguments regarding teaching stations, specialized teaching space, and non-teaching space under the discussion of each respective category above. As has been noted above, the Charter School is receiving an allocation of specialized teaching space far in excess to its entitlement under Proposition 39.

The Charter School has not contested the location of its facilities allocation.

The District has adjusted its calculation of the pro-rata share in response to the Charter School’s arguments.

Charter School’s ADA Projections: The District is allocating space in accordance with the Charter School’s ADA projections.

Site Location: The Charter School stated they “[wish] to remain on the Hawthorne campus.”

Education Code 47614(b) states that “[t]he school district shall make reasonable efforts to provide the charter school with facilities near to where the charter school wishes to locate ...” The District has provided the Charter School a Final Offer at Hawthorne Elementary School, located at 1700 28<sup>th</sup> Avenue, Oakland, CA 94601, which the Charter School listed as their preferred location.

Conversion Charter Status:

The Charter School notes in its facilities request that “[a]s a conversion school, in accordance with Education Code Section 47605(a)(2), the Charter School is entitled to occupy its converted school site in its first year of operation, and thereafter upon annual request, unless and until a mutual amendment of the charter occurs.” The District notes that, still, under Cal. Admin. Code tit. 5, § 11969.3(d), the Charter School must submit an annual facilities request, and its allocation of facilities is subject to the reasonable equivalence capacity requirements set forth in Proposition 39, including potential liability for an overallocation fee in the event of overprojection of ADA.

**C. Final Facilities Offer – Other Terms and Conditions**

**1. Pro-Rata Share**

The calculation of the Charter School’s pro-rata share of facilities costs is attached as **Exhibit H**. The District notes that the Charter School’s share of custodial costs may be subject to reconciliation in the event that the District is required to increase staffing as a result of the Charter School’s use and occupation of the District’s site.

Although the District will address the Charter School’s other stated concerns regarding the facilities costs used to compute the pro-rata share during the course of FUA negotiations, it does maintain that it is entitled to include the cost of property insurance. Cal. Admin. Code tit. 5, § 11969.2 provides the definition of “facilities costs” for the purposes of determining the permissible general fund costs to include in the calculation of the pro-rata share:

As used in Education Code section 47614(b)(1), "facilities costs" are those activities concerned with keeping the physical plant open, comfortable, and safe for use and keeping the grounds, buildings, and equipment in working condition and a satisfactory state of repair. These include the activities of maintaining safety in buildings, on the grounds, and in the vicinity of schools. This includes plant maintenance and operations, facilities acquisition and construction, and facilities rents and leases.

The District believes that it is allowed to include insurance (which only includes property insurance covering the District’s structures, and does not include contents or liability insurance) because these

costs constitute expenses incurred in “keeping the ... buildings ... in working condition and a satisfactory state of repair,” in the event that they are damaged and an insurable claim is made. Therefore, the Charter Schools occupying the District’s facilities under Proposition 39 directly benefit from the property insurance that the District takes out on the structures that they occupy.

**2. Overallocation Fee**

Cal. Admin. Code tit. 5, § 11969.8 provides for a penalty in the event that a school district overallocates facilities to a charter school based on the charter school’s overprojection of Average Daily Attendance (“ADA”) for a school year. Subsection (a) of that regulation provides as follows:

Space is considered to be over-allocated if (1) the charter school's actual in-district classroom ADA is less than the projected in-district classroom ADA upon which the facility allocation was based and (2) the difference is greater than or equal to a threshold ADA amount of 25 ADA or 10 percent of projected in-district classroom ADA, whichever is greater.

The penalty for overallocation is calculated as follows:

The per-pupil rate for over-allocated space shall be equal to the statewide average cost avoided per pupil set pursuant to Education Code section 42263 for 2005-06, adjusted annually thereafter by the CDE by the annual percentage change in the general-purpose entitlement to charter schools calculated pursuant to Education Code section 47633, rounded to the next highest dollar, and posted on the CDE Web site. The reimbursement amount owed by the charter school for over-allocated space shall be equal to (1) this rate times the difference between the charter school's actual in-district classroom ADA and the projected in-district classroom ADA upon which the facility allocation was based, less (2) this rate times one-half the threshold ADA.

Please be advised that, in the event that the District overallocates facilities based upon the charter School’s overprojection of ADA, the District will exercise its rights under the Proposition 39 regulations to collect the overallocation fee from the Charter School.

**3. Miscellaneous**

Should the Charter School accept the Final Offer of Facilities, the District will require it to enter into a Facilities Use Agreement containing the terms and conditions of the District’s facilities allocation. ([Exhibit I](#)) The District provides this proposed agreement without prejudice to its right to propose or modify terms during the process of negotiating the agreement.

Achieve Academy

April 1, 2018

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Under tit. 5, § 11969.9(i) of the Cal. Code of Regs., the Charter School “must notify the school district in writing whether or not it intends to occupy the offered space,” no later than May 1, or 30 days after receipt of this Final Offer, whichever is later.

If you have any questions, please do not hesitate to contact me.

In Service,

A handwritten signature in blue ink, appearing to be the name 'Leslie Jimenez'.

Leslie Jimenez  
Office of Charter Schools

# Exhibit A

## District Facilities' Site Plans and Profiles

To view the District facilities' site plans and profiles, please visit:

<http://www.ousdcharters.net/prop-39-data.html>

# Exhibit B

## Form SAB 50-02

To view the Form SAB 50-02 for each high school attendance area, please visit:

<http://www.ousdcharters.net/prop-39-data.html>

# Exhibit C

## Teaching Station Data

To view the data used to calculate the teaching station ratio, please visit:

<http://www.ousdcharters.net/prop-39-data.html>

# Exhibit D

## Specialized Teaching Space at Comparison and Offer Sites

To view the calculation of specialized teaching space at comparison and offer sites,  
please visit:

<http://www.ousdcharters.net/prop-39-data.html>

# Exhibit E

## Preliminary Educational Adequacy Assessment Data Extract (from Jacobs as of 3.5.18)

To view the preliminary educational adequacy assessment data extract from Jacobs, please visit:

<http://www.ousdcharters.net/prop-39-data.html>

# Exhibit F

## Non-Teaching Space at District Facilities

To view the calculation of non-teaching space at District schools, please visit:

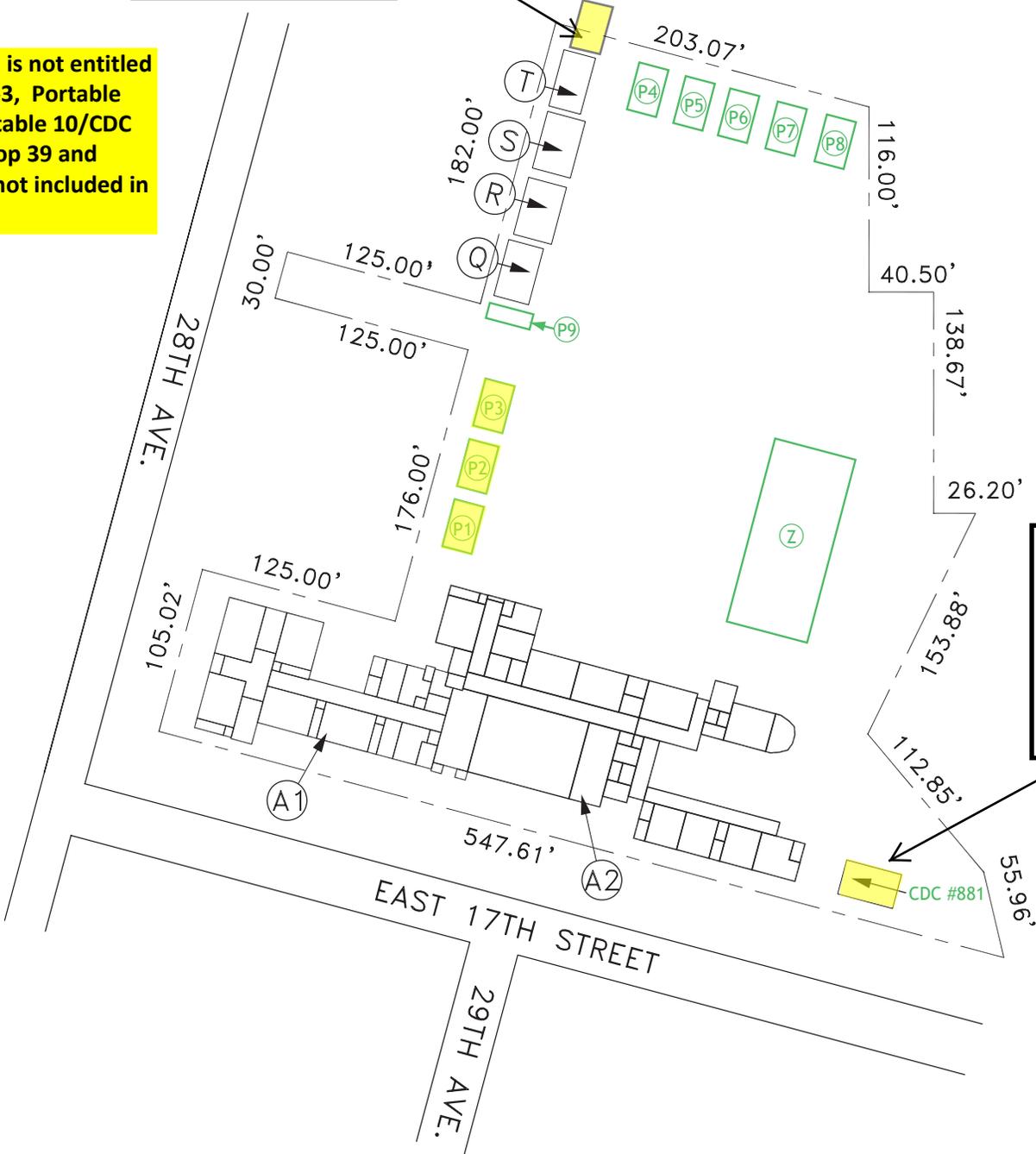
<http://www.ousdcharters.net/prop-39-data.html>

# Exhibit G

Specific Space Offered to Charter School

**Portable P11/U  
(located here) is not  
shown, but is included  
on site profile below.**

**Charter School is not entitled  
to Portables 1-3, Portable  
11/U, and Portable 10/CDC  
#881 under Prop 39 and  
therefore are not included in  
the Final Offer**



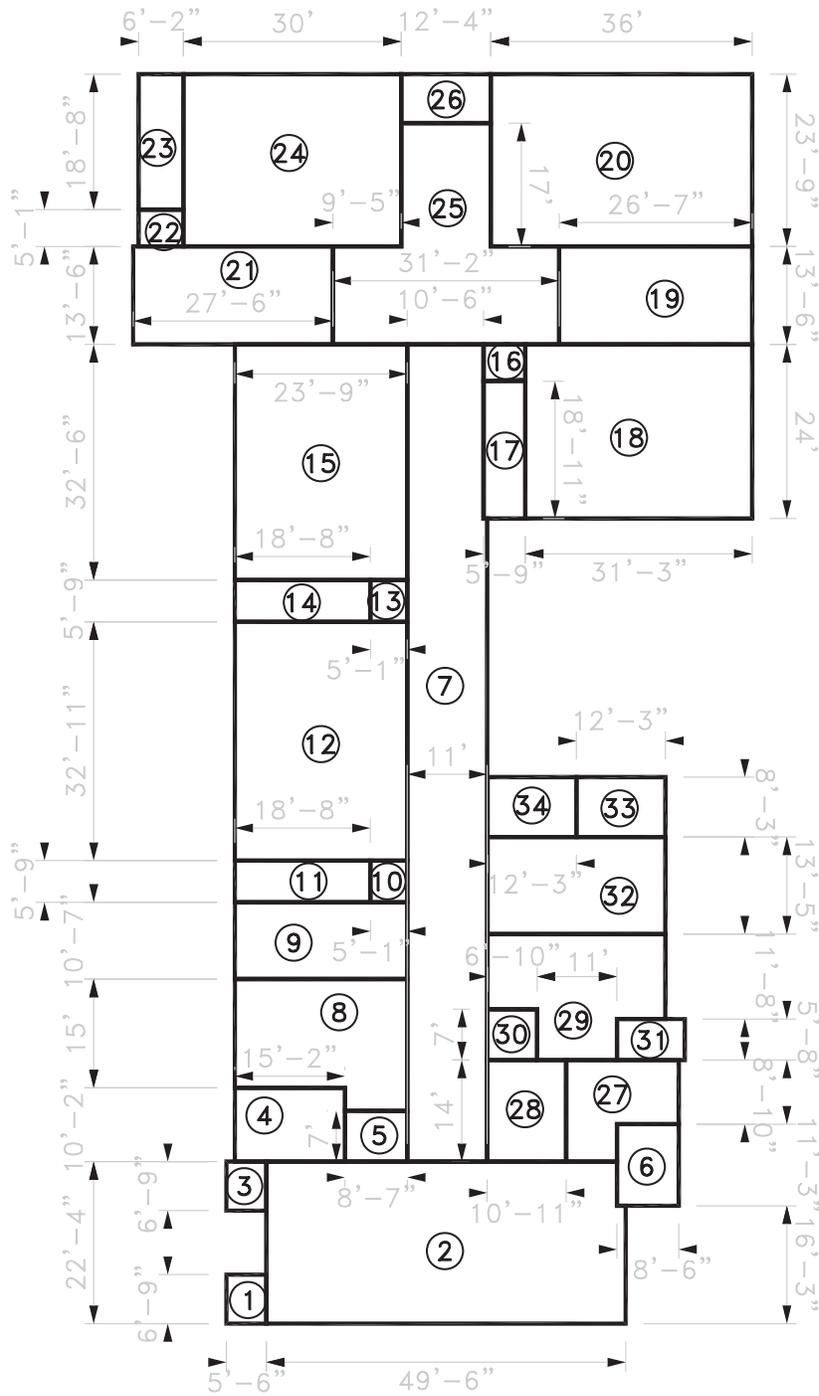
**Portable P10/  
CDC #881 is  
occupied by La  
Clinica, and  
therefore is not  
included in the  
Final Offer.**

Not drawn to scale

**Entire Site (except for  
Portables 1-3, 10/CDC  
#881, and Portable 11/  
U) Exclusive Use by  
Charter School**

## 124 - Hawthorne Elementary School - Site Plan

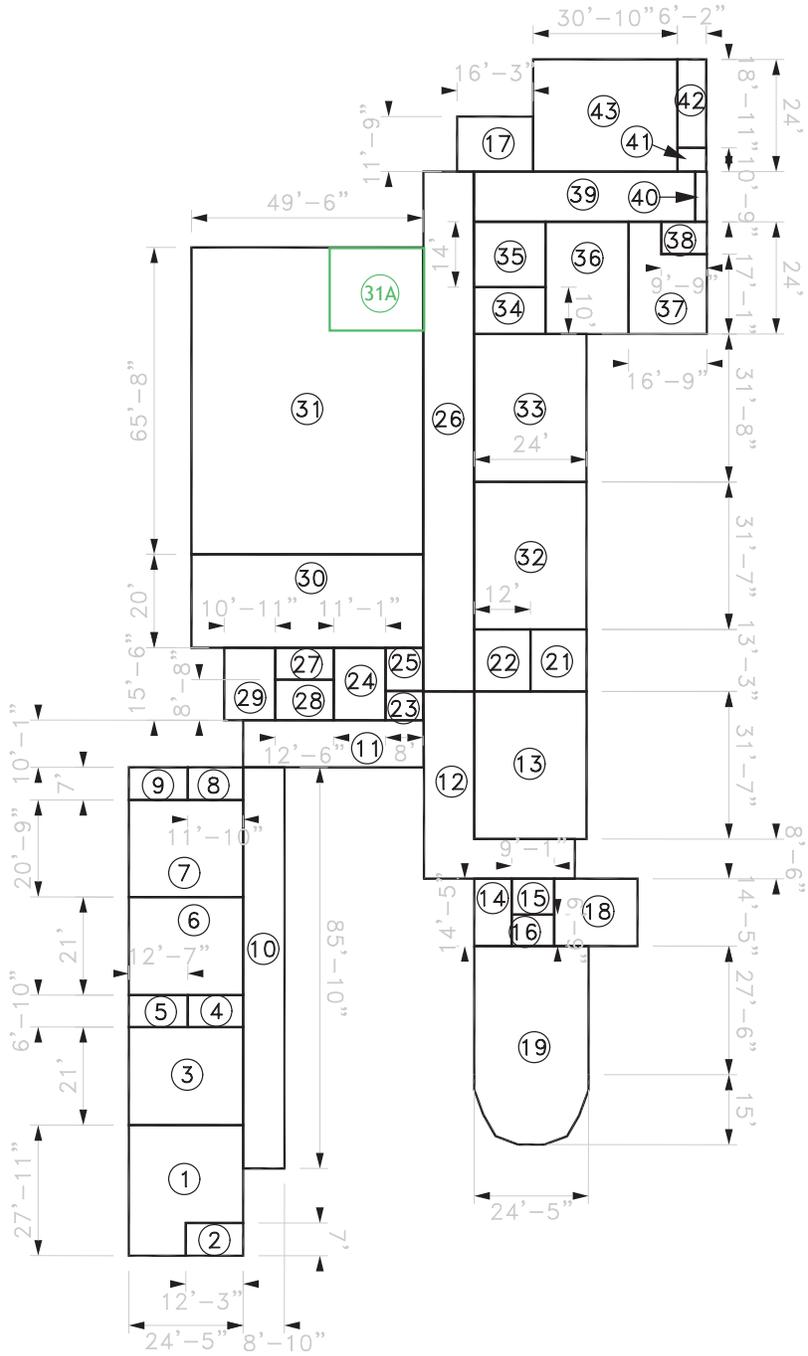
1700 28th Avenue - Oakland, CA 94601-2455



Not drawn to scale

## 124 - Hawthorne Elementary School - Unit A1

1700 28th Avenue - Oakland, CA 94601-2455



Not drawn to scale

## 124 - Hawthorne Elementary School - Unit A2

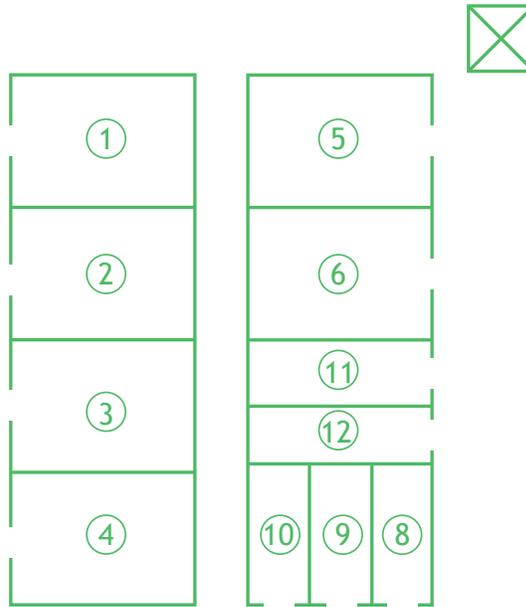
1700 28th Avenue - Oakland, CA 94601-2455

**MKTHINK**

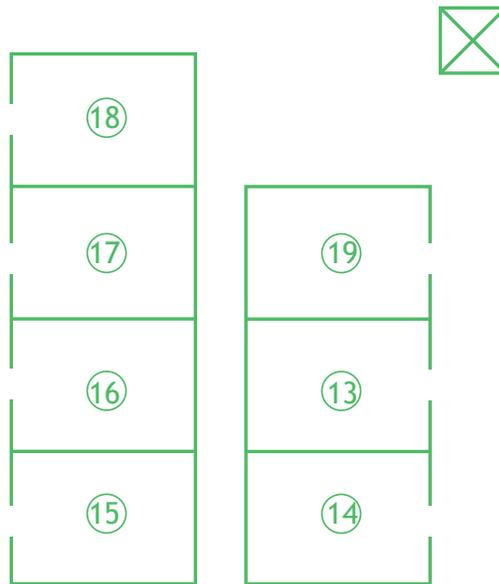
Roundhouse One, 1500 Sansome Street, San Francisco, CA 94111  
mktink.com 415 402 0888

2011





FIRST FLOOR



SECOND FLOOR



Not drawn to scale

# 124 - Hawthorne Elementary School - Unit Z

1700 28th Avenue - Oakland, CA 94601-2455

# Hawthorne Elementary School

1700 28th Avenue

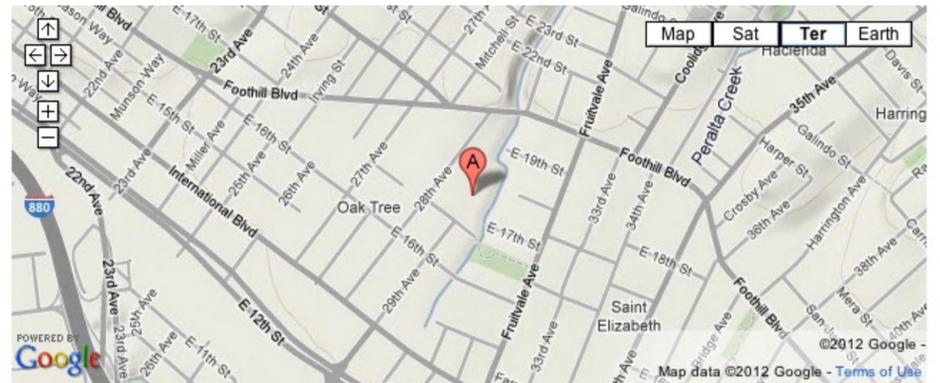
Site 124 Region 2 Grades

Hawthorne Elementary is situated near the intersection of Foothill Boulevard and Fruitvale Avenue in the Oak Tree neighborhood of Oakland. This area is commercially developed along the major avenues, but fully residential on the side streets. The neighborhood is bisected by Sausal Creek, and also features a small city park, the Fruitvale Healthcare Center, several produce markets, and a number of public transit options.

## PROGRAMMING (2012-2013)

### Schools / Enrollment

	SDC	Non-SDC	Total	API (2010-2011)
Achieve Academy (Charter)				819
World Academy (Charter)				



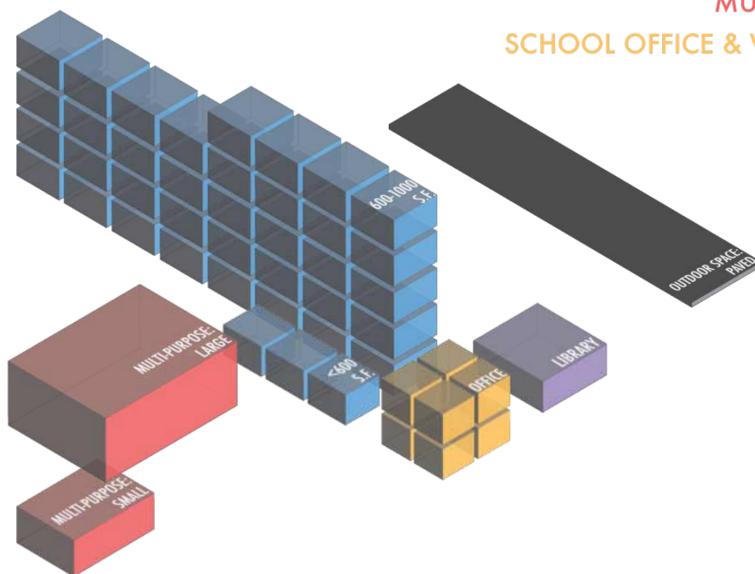
## FACILITIES (Summer 2012)

### LEARNING ENVIRONMENTS

LIBRARY

MULTI-PURPOSE

SCHOOL OFFICE & WORKSPACE



### Summary Counts

	Total	Permanent	Portable
Site Acreage	3.9		
Building Footprint (sf)	51,900		
Building Area (sf)	51,808	40,349	11,459
Classroom-Sized Rooms	36	22	14
3 rooms < 600 s.f. used as classrooms			
	Number of Rooms	Sq Ft	
Library Rooms	1	855	
Auditorium/Cafeteria/ Multi-purpose/Gym	2	4,241	
Admin/Office/ Conference Room	8	1,974	
School Gardens (None)			
Kitchen	Type: Finishing		
On-site Health Clinic	Yes		

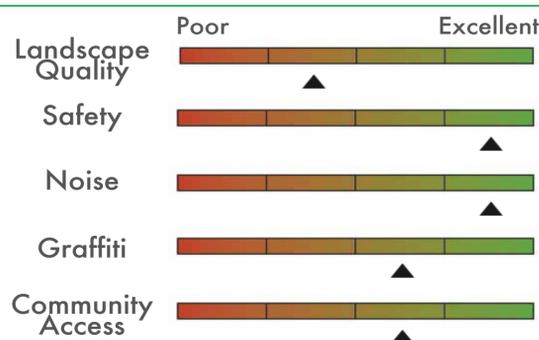
## SITE SUMMARY (Summer 2012)

### Sports / Recreation

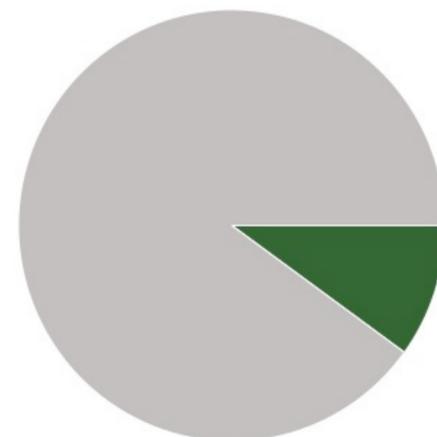
- Play structure ●●
- Basketball hoops ●●
- Swimming pool
- Soccer/football field
- Volleyball court
- Track
- Baseball field
- Tennis court

### Qualitative Assessment

#### Transit Accommodations



### Open Space



Paved 90% 10% Green

# Hawthorne Elementary School

Building Records

Site ID 124

Region 2

Grades

## Site & Facilities Photos - Summer 2011 (Sample)

\*To view the full set, visit: <http://bitly.com/tXnA4a>



### BUILDING **A**

BUILDING AREA (SQFT): 28,040

CONSTRUCTED: 1939

#### STRUCTURAL ELEMENTS

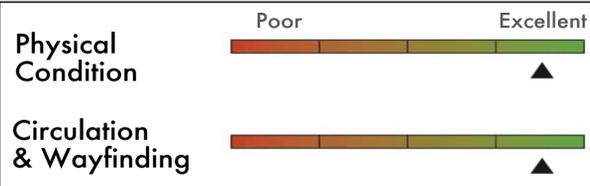
**ROOFING**  
Diagonal sheathing on wood joists

**FOUNDATION**  
Strip footings (under structural walls)

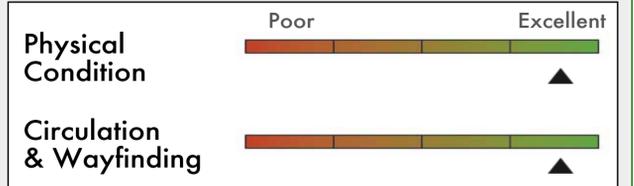
**VERTICAL RESISTANCE**  
Shear wall - Wood stud walls

#### QUALITATIVE BUILDING ASSESSMENT

**EXTERIOR**



**INTERIOR**



#### ROOM SUMMARY

NO. OF CLASSROOMS	9	NO. OF OFFICES	8	NO. OF ADMIN ROOMS	8	NO. OF RESTROOMS	9
NO. OF STUDENT COMPUTERS	1	NO. OF ADMIN WORKSTATIONS	13	ADDITIONAL ADMIN SPACES	Teachers' Lounge		

### MODULAR **Z**

BUILDING AREA (SQFT): 12,309

CONSTRUCTED: 1939

#### STRUCTURAL ELEMENTS

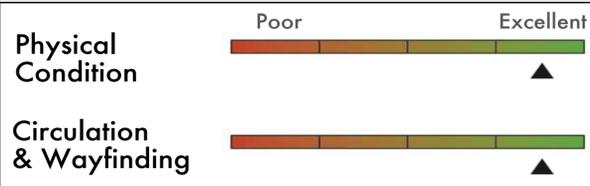
**ROOFING**  
Plywood on wood joists, Steel beams and trusses

**FOUNDATION**  
Strip footings (under structural walls)

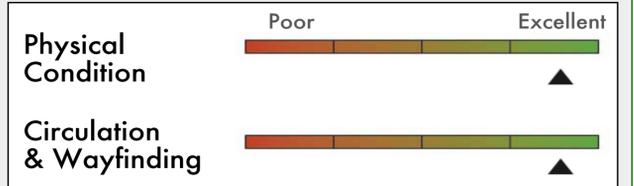
**VERTICAL RESISTANCE**  
Shear wall - Wood stud walls; Infilled frames - Steel moment frames w/ infill concrete walls

#### QUALITATIVE BUILDING ASSESSMENT

**EXTERIOR**



**INTERIOR**



#### ROOM SUMMARY

NO. OF CLASSROOMS	13	NO. OF OFFICES		NO. OF ADMIN ROOMS		NO. OF RESTROOMS	4
NO. OF STUDENT COMPUTERS	3	NO. OF ADMIN WORKSTATIONS		ADDITIONAL ADMIN SPACES			

# Hawthorne Elementary School

Portable Records

Site ID 124

Region 2

Grades

	Manufactured:	NO. OF CLASSROOMS	NO. OF ADMIN ROOMS
<b>R</b>	2000	1	
<b>S</b>	2000	1	
<b>T</b>	2000	1	
<b>Q</b>	2000	1	
<b>P1</b>	2005	1	
<b>P2</b>	2007	1	
<b>P3</b>	2005	1	
<b>P4</b>	2000	1	
<b>P5</b>	2000	1	
<b>P6</b>	1999	1	
<b>P7</b>	1999	1	
<b>P8</b>	1999	1	
<b>P9</b>	2000		
<b>P10</b>	2000		
<b>P11</b>	1995		

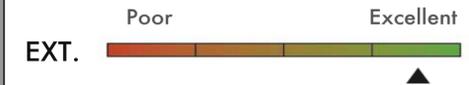
Portable Inventory

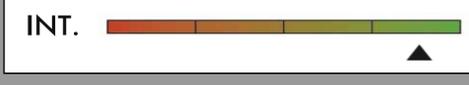
Total Count  
**15**

Average Age  
? Years

Qualitative Conditions Assessment

Poor Excellent

EXT. 

INT. 

# Hawthorne Elementary School

Rooms Summary & List

Site ID 124

Region 2

Grades

BUILDING	BLDG LEVEL	ROOM #	ROOM USE	ROOM AREA (SQ. FT.)	CLASSROOM COMPUTERS	ADMIN WORKSTATIONS	MARKED ROOM #	ROOM CAPACITY
<b>A</b>	1	1	Storage	37			14	
	1	2	Circulation	1,098				
	1	3	Storage	37			13	
	1	4	Admin/Office	154				
	1	5	Restroom	61				
	1	6	Admin/Office	96		1	12	
	1	7	Circulation	1,227			11	
	1	8	Admin/Office	383		2		
	1	9	Building Utilities	251				
	1	10	Storage	29				
	1	11	Storage	107				
	1	12	Classroom	782			5	
	1	13	Storage	29				
	1	14	Storage	107				
	1	15	Classroom	772				
	1	16	Storage	29				
	1	17	Storage	109				
	1	18	Classroom	750				
	1	19	Admin/Office	359		1	10	
	1	20	Library	855				
	1	21	Admin/Office	371		4		
	1	22	Storage	31				
	1	23	Storage	115				
	1	24	Classroom	713				
	1	25	Circulation	630				
	1	26	Circulation	83				
	1	27	Circulation	173				
	1	28	Building Utilities	152				
	1	29	Restroom	340				
	1	30	Restroom	48				
	1	31	Building Utilities	53				
	1	32	Restroom	328			8	
	1	33	Circulation	101			7	
	1	34	Circulation	101				
	2	1	Classroom	596			14	
	2	2	Restroom	86				
	2	3	Classroom	513			13	
	2	4	Storage	81				
	2	5	Storage	86				
	2	6	Lounge/Staff Dining	513			12	
	2	7	Classroom	507			11	
	2	8	Building Utilities	83				
	2	9	Storage	88				
	2	10	Circulation	758				
	2	11	Circulation	389				
	2	12	Circulation	614			5	
	2	13	Classroom	758				
	2	14	Circulation	115				
2	15	Storage	70					
2	16	Restroom	61					
2	17	Admin/Office	191		1			
2	18	Storage	257					
2	19	Classroom	973			10		
2	21	Storage	159					
2	22	Storage	159					
2	23	Restroom	50					
2	24	Building Utilities	172					

	BLDG LEVEL	ROOM #	ROOM USE	ROOM AREA (SQUARE FOOTAGE)	CLASSROOM COMPUTERS	ADMIN WORKSTATIONS	MARKED ROOM #	ROOM CAPACITY
	2	25	Restroom	74				
	2	26	Circulation	1,199				
	2	27	Admin/Office	85		1		
	2	28	Storage	108				
	2	29	Locker Rooms	169				
	2	30	Multipurpose	990				
	2	31	Multipurpose	3,251				451
	2	31a	Building Utilities	238		1	31	
	2	32	Classroom	758			8	
	2	33	Classroom	760			7	
	2	34	Storage	153				
	2	35	Building Utilities	214				
	2	36	Lounge/Staff Dining	426				
	2	37	Admin/Office	335		2		
	2	38	Restroom	67				
	2	39	Circulation	508				
	2	40	Circulation	27				
	2	41	Storage	31				
	2	42	Storage	116				
	2	43	Classroom	741	1		6	
<b>PORTABLE</b>		<b>P1</b>						
		1	Classroom	782				
<b>PORTABLE</b>		<b>P10</b>						
		1		900				
<b>PORTABLE</b>		<b>P11</b>						
		1		781				
<b>PORTABLE</b>		<b>P2</b>						
		1	Classroom	782				
<b>PORTABLE</b>		<b>P3</b>						
		1	Classroom	782				
<b>PORTABLE</b>		<b>P4</b>						
		1	Classroom	782	1		45	
<b>PORTABLE</b>		<b>P5</b>						
		1	Classroom	782	1		46	
<b>PORTABLE</b>		<b>P6</b>						
		1	Classroom	782	1		47	
<b>PORTABLE</b>		<b>P7</b>						
		1	Classroom	782	2		48	
<b>PORTABLE</b>		<b>P8</b>						
		1	Classroom	782	1		49	
<b>PORTABLE</b>		<b>P9</b>						
		1		300				
<b>PORTABLE</b>		<b>Q</b>						
		1	Classroom	781				

Portable 10 is not identified on the site map, but is assumed to be CDC #881 and is occupied by La Clinica.

Portable 11/U is not identified on the site map, but is located in the Northwest corner next to Portable T

Portables 1-3, 10-11 are not included as part of the Final Offer.

		BLDG LEVEL	ROOM #	ROOM USE	ROOM AREA (SQUARE FOOTAGE)	CLASSROOM COMPUTERS	ADMIN WORKSTATIONS	MARKED ROOM #	ROOM CAPACITY			
<b>PORTABLE</b>	<b>R</b>		1	Classroom	864			42				
		<b>PORTABLE</b>	<b>S</b>		1	Classroom	864	2	43			
				<b>PORTABLE</b>	<b>T</b>		1	Classroom	713	1	44	
						<b>MODULAR</b>	<b>Z</b>	1	1	Classroom	899	
1	2	Classroom	899		222							
1	3	Classroom	899		223							
1	4	Classroom	899									
1	5	Classroom	899									
1	6	Classroom	899		226							
1	8	Restroom	63									
1	9	Restroom	63									
1	10	Building Utilities	80									
1	11	Restroom	208									
1	12	Restroom	208									
2	13	Classroom	899	1	232							
2	14	Classroom	899	2	233							
2	15	Classroom	899		230							
2	16	Classroom	899		229							
2	17	Classroom	899		228							
2	18	Classroom	899		228							
2	19	Classroom	899		231							

# Exhibit H

## Allocation, Fees, & Payment Schedule\*

Contract Term (Fiscal Year):	2018-19
Charter School Name:	<b>Achieve Academy</b>
Site Name:	<b>Hawthorne Campus</b>
Address:	1700 28th Avenue, Oakland, CA 94601
<b>SPACE ALLOCATION</b>	
Exclusive Use Space (sqft)	47,781
+ Proportion of Shared Space (sqft)	0
<b>Total Space Allocation at Site (sqft)**</b>	<b>47,781</b>
<b>FACILITY USE FEE</b>	
Total Space Allocation at Site (sqft)	47,781
x Facility Fee Sqft Rate	\$3.85
<b>Facility Use Fee</b>	<b>\$183,956.85</b>
<b>UTILITIES FEE</b>	
Projected Charter School ADA at Site***	646.61
÷ Projected Total Site ADA	646.61
<b>Charter School Percent of Site Use</b>	<b>100.00%</b>
<b>PAYMENT SCHEDULE</b>	
25% by October 1, 2018	
25% by December 1, 2018	
25% by April 1, 2019	
25% by July 1, 2019	

\*All calculations subject to change.

\*\*Includes only interior space. The District is entitled under Cal. Admin. Code tit. 5, § 11969.7(c) to charge the charter school on a square footage basis for use of common areas such as the parking lot, exterior corridors, field space, playground, and blacktop, but is not doing so at this time. The District reserves the right to amend its calculation of the pro-rata share to include all "space allocated by the school district to the charter school," and will provide the charter school notice and an opportunity to respond before implementing any changes. The full allocation of both interior and exterior space is outlined in the preliminary offer letter.

\*\*\*Includes total (in-district + out-of-district) projected ADA as reported in the schools' facilities request form.

**WORKSHEET -- OUSD's Prop 39 Facility Use Rate Per Sq Ft Calculation**

Calculation is based on 2017/18 Budget as of 11/28/17

RRMA Transfer from UR to resource 8150

Facility Acquisition and Construction (Function 8500)

	Prop 39 Base
Custodial Services Department Expenses*	
Supplies and Materials	
Services and Operation Cost	
Buildings & Grounds Department Expenses	
RRMA transfer from UR to resource 8150	13,048,405
Facility Acquisition and Construction (Func 8500)	70,324
Utilities Expenses*	13,118,729
Gas, Water & Electric	
Sewer Charges	
Basic Phone Service	
Debt Servicing - Principal & Interest payments (E.C. 47614)	
Emerg. Apportionment (State) Loan - \$65 million	3,890,534
Emergency Apportionment (State) Loan - \$35 million	2,094,903
Police Services (CCR 11969.2 (h) Safe & Comfortable)	5,985,437
Insurance (Function 6000)	908,582
<b>TOTAL COST BASIS</b>	<b>22,467,204</b>
<b>TOTAL DISTRICT SQUARE FOOTAGE</b>	<b>5,836,129</b>
<b>COST PER SQUARE FOOT</b>	<b>\$ 3.85</b>

\* Item may be added to Use Agreement if applicable  
3/16/18 Revised

Object Codes	As of 11/28/17 BUDGET
<b>2. Classified Salaries</b>	<b>7,014,206</b>
2205 - CLASSSUPT SALARIES	5,774,629
2220 - CLASSSUPT SALARIES STIPENDS	-
2225 - CLASSSUPT SALARIES OVERTIME	211,519
2305 - SUPV/ADM SALARIES	932,907
2405 - CLERICAL SALARIES	95,152
2450 - CLERICAL SUBSTITUTES	-
<b>3. Employee Benefits</b>	<b>3,281,634</b>
3102 - STRS CLASSIFIED	30,522
3202 - PERS CLASSIFIED	1,031,388
3302 - SOCSEC MEDICAL TSS CLASSIFIED	417,171
3322 - MEDICARE CLASSIFIED	100,631
3342 - PARS CLASSIFIED	5,627
3402 - HEALTH & WELFARE CLASSIFIED	1,175,297
3502 - ST UNEMPLOY INS CLASSIFIED	7,426
3602 - WORKERS COMP CLASSIFIED	433,755
3802 - PERS REDUCTION CLASSIFIED	-
3902 - OTHER BENEFITS CLASSIFIED	59,817
<b>4. Books and Supplies</b>	<b>1,164,244</b>
4310 - SUPPLIES	1,005,994
4330 - GASOLINE	140,000
4399 - SUPPLUS	-
4410 - Equipment \$500-4,999	14,306
4420 - Computer \$500-4,999	3,944
4432 - Furniture \$500-4,999	-
<b>5. Services and Operating</b>	<b>1,573,321</b>
5515 - DISPOSAL SERVICES	94,784
5210 - MILEAGE/PERSONAL EXP REIMB	-
5610 - EQUIP MAINTENANCE AGREEMT	1,800
5622 - RENTALS - EQUIPMENT	12,000
5670 - REPAIRS CONT - VEHICLE	1,122,351
5679 - REPAIRS CONT - VEHICLE	90,000
5716 - INTERPGM - DUPLICATION SERVICE	1,175
5720 - INTERPGM - MAINT WORK ORDERS	(9,000)
5724 - INTERPGM - POSTAGE	-
5760 - INTERFUND - MAINT WORK ORDERS	(16,000)
5810 - ADVERTISING - LEGAL	10,211
5826 - EXTERNAL WORK ORDER SERVICES	250,000
5910 - POSTAGE	1,000
5930 - TELEPHONE	15,000
5934 - PAGERS	-
<b>6. Capital Outlay</b>	<b>35,000</b>
6410 - EQUIPMENT	35,000
6460 - VEHICLE PURCHASE	-
<b>7. Other Outgo</b>	<b>-</b>
7615 - IFT GEN SRF BLDG TO DEF MAINT	-
7990 - UNAPPROPRIATED FUND BALANCE	-
<b>Grand Total</b>	<b>13,048,405</b>

Source: Rpt 12 - Fd 01, Res. 8150, Obj. 1000-7990

Object Codes	As of 11/28/17 BUDGET
<b>4. Books and Supplies</b>	<b>37,724</b>
4310 - SUPPLIES	35,000
4311 - MEETING REFRESHMENTS	-
4315 - COMPUTER SUPPLIES	-
4399 - SUPPLUS	-
4410 - Equipment \$500-4,999	-
4420 - Computer \$500-4,999	2,724
4432 - Furniture	-
<b>5. Services and Operating</b>	<b>32,600</b>
5210 - MILEAGE/PERSONAL EXP REIMB	23,500
5220 - CONFERENCE EXPENSE	5,000
5300 - DUES & MEMBERSHIPS	1,000
5610 - EQUIP MAINTENANCE AGREEMT	-
5620 - RENTALS (NON-CAPITAL LEASES)	-
5622 - RENTALS - EQUIPMENT	-
5675 - REPAIRS CONT - EQUIP OTHER	-
5716 - INTERPGM - DUPLICATION SERVICE	600
5714 - INTERPGM - POSTAGE	-
5800 - OTHER SERVICES & OPERATING EXPS	-
5825 - CONSULTANTS	-
5890 - CONTRACTED SERVICES	-
5870 - PRINTING	-
5872 - Property Loss	-
5910 - Postage	2,500
5930 - Telephone	-
<b>6. Capital Outlay</b>	<b>-</b>
6100 - Sites & Improvement of Sites	-
6200 - Buildings & Improvement of Buildings	-
6215 - Architects/Engineers	-
6220 - Assessments and Fees	-
6252 - Preliminary Fees	-
6252 - Other Planning Costs	-
6271 - Main Construction	-
6274 - Other Construction	-
6276 - Moving Expense	-
6410 - Equipment	-
<b>Grand Total</b>	<b>70,324</b>

Source: Rpt 12 - Fd 01, Function 8500

[Home Table of Contents](#)**§ 11969.7. Charges for Facilities Costs.**

5 CA ADC § 11969.7

BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS

Barclays Official California Code of Regulations [Currentness](#)

Title 5. Education

Division 1. California Department of Education

Chapter 11. Special Programs

Subchapter 19. Charter Schools

Article 3. Facilities for Charter Schools.

5 CCR § 11969.7

**§ 11969.7. Charges for Facilities Costs.**

If the school district charges the charter school a pro rata share of its facilities costs for the use of the facilities, the pro rata share shall not exceed (1) a per-square-foot amount equal to those school district facilities costs that the school district pays for with unrestricted revenues from the district's general fund, as defined in sections 11969.2(f) and (g) and hereinafter referred to as "unrestricted general fund revenues," divided by the total space of the school district times (2) the amount of space allocated by the school district to the charter school. The following provisions shall apply to the calculation of the pro rata share of facilities costs:

(a) For purposes of this section, facilities costs that the school district pays with unrestricted general fund revenues includes those costs associated with plant maintenance and operations, facilities acquisition and construction, and facilities rents and leases, as defined in section 11969.2(h). For purposes of this section, facilities costs also includes:

- (1) contributions from unrestricted general fund revenues to the school district's Ongoing and Major Maintenance Account (Education Code section 17070.75), Routine Restricted Maintenance Account (Education Code section 17014), and/or deferred maintenance fund,
- (2) costs paid from unrestricted general fund revenues for projects eligible for funding but not funded from the deferred maintenance fund, and
- (3) costs paid from unrestricted general fund revenue for replacement of facilities-related furnishings and equipment, that have not been included in paragraphs (1) and (2), according to school district schedules and practices.

For purposes of this subdivision, facilities costs do not include any costs that are paid by the charter school, including, but not limited to, costs associated with ongoing operations and maintenance and the costs of any tangible items adjusted in keeping with a customary depreciation schedule for each item.

(b) For purposes of this section, the cost of facilities shall include debt service costs.

(c) "Space allocated by the school district to the charter school" shall include a portion of shared space where a charter school shares a campus with a school district-operated program. Shared space includes, but is not limited to, those facilities needed for the overall operation of the campus, whether or not used by students. The portion of the shared space to be included in the "space allocated by the school district to the charter school" shall be calculated based on the amount of space allocated for the exclusive use of the charter school compared to the amount of space allocated to the exclusive use of the school-district-operated program.

(d) The per-square-foot charge shall be determined using actual facilities costs in the year preceding the fiscal year in which facilities are provided and the largest amount of total space of the school district at any time during the year preceding the fiscal year in which facilities are provided.

(e) The per-square-foot charge shall be applied equally by the school district to all charter schools that receive facilities under this article, and a charter school using school district facilities pursuant to Education Code section 47614 shall report the per-square-foot charge it is paying in the current fiscal year to the California Department of Education (CDE) in any notification the charter school makes to the CDE pursuant to Education Code section 47630.5(b). The CDE shall post the per-square-foot amounts reported by charter schools on its publicly accessible Web site. The CDE shall offer the opportunity to each school district to provide explanatory information regarding its per-square-foot charge and shall post any information received.

(f) If a school district charges a charter school for facilities costs pursuant to this article, and if the district is the charter school's authorizing entity, the facilities are not substantially rent free within the meaning of Education Code section 47613, and the district may only charge for the actual costs of supervisory oversight of the charter school not to exceed one percent of the school's revenue.

Note: Authority cited: Sections 33031 and 47614(b), Education Code. Reference: Sections 17014, 17070.75, 47613, 47614 and 47630.5, Education Code.

### HISTORY

1. New section filed 7-30-2002; operative 8-29-2002 (Register 2002, No. 31).
2. Amendment of section and Note filed 2-28-2008; operative 3-29-2008 (Register 2008, No. 9).

This database is current through 11/24/17 Register 2017, No. 47

5 CCR § 11969.7, 5 CA ADC § 11969.7

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**END OF DOCUMENT**

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# Exhibit I

## Draft Facilities Use Agreement

To view a draft Facilities Use Agreement, please visit:

<http://www.ousdcharters.net/prop-39-data.html>

# Exhibit J

## Multi-Site Resolution

To view Resolution No. 1617-0009: Finding that Charter Schools Could not be Accommodated at a Single Site and Written Statement of Reasons Explaining the Finding in Compliance with Proposition 39, please visit:

<http://www.ousdcharters.net/prop-39-data.html>

# Exhibit K

## Amendment to Multi-Site Resolution

To view the Amendment to the Resolution 1718-0035 and Findings that the Charter Schools Could Not Be Accommodated at a Single Site and Written Statement of Reasons Explaining the Findings, please visit:

<http://www.ousdcharters.net/prop-39-data.html>