

**RESOLUTION OF THE BOARD OF EDUCATION OF THE  
OAKLAND UNIFIED SCHOOL DISTRICT  
RESOLUTION No. 1920-0221D**

**Adopting Issuance of Proposition 39 Facilities Offers and Directing Staff to Issue Written Final  
Offers in Compliance with Proposition 39  
(Cal. Code Regs., tit. 5, § 11969.1 *et seq.* )**

**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 are shared fairly among all students attending traditional and charter schools; and

**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 each Charter School to accommodate all of the Charter School’s 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; and

**WHEREAS**, Education Code section 47614 requires that the facility offered to each Charter School be contiguous, furnished and equipped; and

**WHEREAS**, District staff has evaluated all feasible facilities allocation options, and considered capacity, condition, location and other relevant factors, using as a point of reference a set of “comparison schools” as required by Proposition 39, to offer a facility to each Charter School that meets Proposition 39 standards for “reasonable equivalence” in terms of “capacity” and “condition”; and

**WHEREAS**, Cal. Admin. Code 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”; and

**WHEREAS**, school districts have the discretion, in determining reasonable equivalent facilities allocations to charter schools, and in meeting their Proposition 39 obligations, to consider the impact upon existing district programs. (*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); and

**WHEREAS**, for the 2020-21 school year, 14 eligible charter schools requested facilities under Proposition 39; and

**WHEREAS**, the Board incorporates the Resolution No. 1920-0075 (“Finding that Charter Schools Could Not Be Accommodated at a Single Site and Written Statement of Reasons Explaining the Finding”) and the Staff Report “Process for Determining Charter Schools Which

Cannot Be Accommodated at a Single Site For 2020-21 School Year,” approved together by the Board on January 22, 2020, into this Resolution; and

**WHEREAS**, having analyzed the space in the specific area where each Charter School wishes to locate, the District is unable to extend a single site offer to all requesting charter schools in their desired geographic location for the reasons stated herein and in Resolution No. 1920-0220B, which is incorporated; and

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

**NOW, THEREFORE**, the Board of the District hereby allocates the following school sites to be offered to the charter school named below for the 2020-21 school year under Proposition 39:

| Name of Charter School     | Site(s) to be Offered  |
|----------------------------|--|
| Francophone Charter School | Former Toler Heights Campus<br>9736 Lawlor Street, Oakland, CA 94605       |
|                            | Howard Elementary School Campus<br>8755 Fontaine Street, Oakland, CA 94605 |

**NOW, THEREFORE**, the Board of the District hereby directs District staff to issue Final Offers of Facilities to the above-named charter school under Proposition 39 and its implementing regulations by the required deadline.

**PASSED AND ADOPTED** by the Board of Education of the Oakland Unified School District at a Special Meeting this 31<sup>st</sup> day of March, 2020, by the following vote, to wit:

Passed by the following vote:

PREFERENTIAL AYE:

PREFERENTIAL NOE:

PREFERENTIAL ABSTENTION:

PREFERENTIAL RECUSE:

AYES:

NOES:

ABSTAINED:

RECUSE:

ABSENT:

**CERTIFICATION**

We hereby certify that the foregoing is a full, true and correct copy of a Resolution passed at a Special Meeting of the Board of Education of the Oakland Unified School District, held on March 31, 2020.

| <b>Legislative File Info.</b> |           |
|-------------------------------|-----------|
| File ID Number:               | 20-0658   |
| Introduction Date:            | 3/31/2020 |
| Enactment Number:             |           |
| Enactment Date:               |           |

**OAKLAND UNIFIED SCHOOL DISTRICT**

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Jody London  
President, Board of Education

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Kyla Johnson-Trammell  
Superintendent and Secretary, Board of Education