

OAKLAND UNIFIED SCHOOL DISTRICT
Office of the Superintendent

April 25, 2012

Legislative File

File ID No.: 12-0789

Introduction Date: 3/28/2012

Enactment No.: 12-1044

Enactment Date: 4-25-12

By: 

TO: Board of Education

FROM: Anthony Smith, Ph.D., Superintendent
Gail Ann Greely, Coordinator, Office of Charter Schools

SUBJECT: Prop. 39 Final Facility Offer 2012-2013 School Year

ACTION REQUESTED:

Approve the proposed Final Facilities Offer to be made by the District to Urban Montessori Charter School under the Proposition 39 Statute, wherein charter schools are granted the right to request facilities allocations from the school district in which they reside commensurate with the in-district ADA of the charter school enrollment.

SUMMARY:

Following a period of preliminary facility offer considerations, as required under state statute, staff recommends the approval of the Final Facilities Offer under Proposition 39, as outlined in the attached resolution, with the specific facility space allocations included in the attached Final Facilities Offer Letter.

Each Proposition 39 application submitted pursuant to statute requirements was evaluated to determine the specific facilities needs under which the District is obligated to meet. To the extent possible, OUSD has attempted to match charter school facility requests with space available based on the compatibility of the following features:

- The quantity of classroom space requested and the excess classroom space available.
- The grades served by each program when programs are co-located.
- The school program and the site.
- The location requested and the location available.

Following a review of current projected use of District facilities for the academic school year 2012-2013, staff identified the facilities indicated in the attached resolution as the most appropriate and compliant facilities to commit as a Final Facilities Offer pursuant to the school's Proposition 39 facilities request. Statute requires that requesting charter schools receive Final Facility Use Offers by April 2, 2012 (April 1st being a Sunday) and in turn must respond to that offer no later than May 1, 2012. In this case, the District and the charter school have mutually agreed to an extension of the final offer deadline to April 25, 2012, with a response due no later than May 25, 2012. A declined offer finalizes the Proposition 39 Facilities Request process. Should a Final Facilities Offer be accepted, it will be contingent on the terms of the facility use agreement, as well as the expectations established for the equitable sharing of facilities, where applicable, between the school site administrators.

The facility use rate under which the Final Facilities Offer will be made is established at a rate to be \$2.95 per square foot, per year, based on an analysis by Facilities Counsel and the CFO as to the applicable costs associated with statute.

The calculation of square footage allocation to be offered is based on a division of the total facility square footage by a divisor equal to the percentage of total classrooms within the facility being allocated to the charter school. The calculation of teaching stations (classrooms) to be offered to the requesting charter school applies the statutory language where-in the determination must be made using "comparison schools" comprised of the *"school district-operated schools with similar grade levels that serve students living in the high school attendance area ... in which the largest number of students of the charter school reside."*

The attached resolution outlines the total square footage and teaching stations to be included in the Final Facilities Offer under Proposition 39. The attached Final Facilities Letter includes specific space identified for consideration by each requesting school within the statutory timeframe.

BACKGROUND:

Under the California Education Code Section 47614; *"Each school district shall make available, to each charter school operating in the school district, facilities sufficient for the charter school to accommodate all of the charter school's in-district students in conditions reasonably equivalent to those in which the students would have been accommodated if they were attending other public schools of the district."*

Under this statute, the District is obligated to provide facilities to requesting charter schools operating within Oakland Unified attendance boundaries. These facilities offers, if accepted, will be followed by the establishment of a Facility Use Agreement which will define the scope of the facility use terms. The period under which these facilities will be offered by use of the requesting charter school is for **one academic school year only: 2012-2013**. The requesting charter school may submit a subsequent Prop. 39 facilities request for the ensuing school years, pursuant to the requirements of the statute and applicable legislation, which will then be evaluated within the context of the District's continued capacity to provide such facilities.

RECOMMENDATION:

It is the recommendation of staff to approve the proposed Final Facilities Offer to Urban Montessori Charter School under Proposition 39 as outlined in attached resolution.



OAKLAND UNIFIED SCHOOL DISTRICT

Office of the Superintendent

1025 Second Avenue, Room 301

Oakland, CA 94606

Phone (510) 879-8200

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RESOLUTION
OF THE
GOVERNING BOARD
OF THE
OAKLAND UNIFIED SCHOOL DISTRICT

Resolution No. 1112-0197

2012-2013 School Year Offer(s) of Sherman Elementary Site, a District Facility To Urban Montessori Charter School, Pursuant to Requirements of Proposition 39

WHEREAS, Proposition 39 – School Facilities, adopted by California voters on November 7, 2000, requires a local K-12 school district under specified circumstances to make available District facilities to Charter Schools; and,

WHEREAS, the District has received such a request pursuant to statutory requirements from one or more Charter Schools for the 2012-2013 school year; and,

WHEREAS, District staff has evaluated the requests and has attempted to match charter school facility requirements with available space, if any, within the District; and,

WHEREAS, District staff specifically has attempted to match charter school facility requests with available space based on the compatibility of the following features:

- The quantity of classroom space statutorily required to be provided and the excess classroom space available;
- The grades served by each program when programs are co-located;
- The school program and the site; and,
- The location requested and the location available; and

WHEREAS, District staff based on the foregoing and a current projected use of District facilities for the 2012-2013 School Year, has identified facilities that are appropriate and compliant with the requirements of Proposition 39 to make available to Charter Schools; and,

WHEREAS, the District is presently required under statute to make such a Final Facility Offer not later than April 2, 2012 (April 1st being a Sunday); and,

WHEREAS, offers made under Proposition 39 must be responded to by the charter school within 30 calendar days of the date at which the offer is made, or no later than May 1, 2012; and,

WHEREAS, the District and the charter school mutually agreed to extend the timeline for the Final Facility Offer to April 25, 2012 and the date for a response to no later than May 25, 2012; and,

WHEREAS, District staff has developed a preliminary Facility Use Agreement that will be required to come before the Governing Board of the District for final approval, should the Facility Offer be accepted by the charter school; and,

WHEREAS, the facility use rate associated with the facility offer proposed here-in considers all applicable costs that may be included in the pro rata facility use rate under statute, and has been reviewed by District legal counsel to ensure alignment with said statute; and,

WHEREAS, the Final Facility Offer detailed herein is for a period of one year only, the 2012-2013 School Year; and,

WHEREAS, the Final Facility Offer letter attached herein includes the following information, limited to those areas required under statute, per District counsel advice;

- The teaching and non-teaching space to be offered for exclusive use and teaching and non-teaching space to be shared
- The arrangements for shared space, if applicable
- The in-District classroom ADA assumptions for the charter school
- Pro rata share amount and payment schedule; and,

NOW, THEREFORE, BE IT RESOLVED, the District hereby makes said offers, summarized herein, as follows for the 2012-2013 School Year to the Charter School named below:

<p>Urban Montessori Charter School, K-2 (2012-13)</p>	<p><u>ENROLLMENT:</u> In-District ADA: 220.3 Total in-district enrollment based on most relevant attendance rate: 95%</p>	<p><u>RATIO:</u> Ratio applied to in-district enrollment based on an evaluation of equivalent facility allocation to comparison district school students: 18.32</p>	<p><u>TEACHING STATION ALLOCATION:</u> Total teaching station allocation: 12 teaching stations</p>
<p><u>FINAL FACILITIES OFFER:</u> Sherman Elementary School (see map)</p> <p>- 12 teaching stations</p> <p>- all existing non-teaching stations on the site</p> <p>- Access to all other site spaces</p>	<p><u>PRO RATA SHARE FACILITY USE RATE:</u> Total Square Footage of exclusive use and prorated shared use of the Facility space included in Final Offer:</p> <p>24,135 sq ft (calculated based on exclusive use of entire site)</p> <p>Annual Facility Use Rate \$2.95 per square foot, per year.</p> <p>Total Facility Use Rate pursuant to this offer: \$71,198.00</p>	<p><u>SHARED ACCESS TO SHARED SPACE:</u> Final Facilities Offer includes no shared facility; offer is entire campus for use by the charter school (see map).</p>	

BE IT FURTHER RESOLVED that any such offer accepted not later than May 25, 2012 by Charter School shall be formalized by a mutually approved Facility Use Agreement between the District and the Charter School.

I hereby certify that the foregoing is a full, true, and correct copy of a Resolution passed at a Regularly Scheduled Meeting of the Superintendent and/or Board of Education of the Oakland Unified School District on April 25, 2012.

Passed by the following vote:

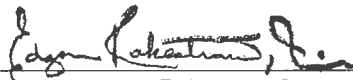
AYES: David Kakishiba, Gary Yee, Christopher Dobbins, Noel Gallo,
Vice President Jumoke Hinton Hodge and President Jody London

NOES: None

ABSTAINED: None

ABSENT: Alice Spearman

I hereby certify that the foregoing is a full, true and correct copy of a Resolution adopted at a Regular Meeting of the Governing Board of the Oakland Unified School District held April 25, 2012.



Edgar Rakestraw, Jr.
Secretary, Board of Education

File ID Number: 12-0789
Introduction Date: 4-25-12
Enactment Number: 12-1044
Enactment Date: 4-26-12
By: [Signature]

April 25, 2012

Peter Laub
Urban Montessori Charter School
P.O. Box 8452, Emeryville, CA
Oakland, CA 94662-0452



**RE: Proposition 39 Final Facility Offer
Sherman Elementary – 5328 Brann Street**

Dear Peter Laub:

On November 7, 2000, California voters passed Proposition 39. A portion of this initiative amended Education Code section 47614 to mandate that school districts make excess facility space available to in-district charter school students, if certain conditions are met, in a manner that is fair to all public school students. The California Department of Education has also promulgated implementing regulations, most of which took effect on August 29, 2002.

To the extent possible, Oakland Unified School District has attempted to match charter school facility requests with space available based on the compatibility of the following features:

- The quantity of classroom space requested and the excess classroom space available.
- The grades served by each program when programs are co-located.
- The school program and the site.
- The location requested and the location available.

On February 1, 2012, the District provided your charter school a Proposition 39 preliminary facility offer to occupy space for one year only at former Life Academy, as required by the California Code of Regulations, Title 5. Education, Division 1. California Department of Education, Chapter 11. Special Programs, Subchapter 19, Charter Schools, Article 3. Facilities for Charter Schools, Section 11969.9 (5 CCR s 11969.9 Cal. Admin. Code Tit. 5, s 11969.9).

This letter constitutes a Final Offer of facility space as required by the California Code of Regulations, Title 5. Education, Division 1. California Department of Education, Chapter 11. Special Programs, Subchapter 19, Charter Schools, Article 3. Facilities for Charter Schools, Section 11969.9 (5 CCR §11969.9).

Response to Charter School Concerns or Counter-Proposal

As described in 5 CCR §11969.9(g), the charter school responded in writing to the District's preliminary facilities proposal. The District's response to the charter school's concerns and/or counter proposals is attached.

2012-2013 Proposition 39 Final Facility Offer

From Oakland Unified School District

To Urban Montessori Charter School

For the 2012-2013 School Year Only

- Exclusive use of 12 classrooms at Sherman Elementary Site, 5328 Brann Street
- Exclusive use of all non-teaching space within Sherman Elementary
- No shared use of space; offer is entire campus.

This offer is based on an in-district classroom ADA assumption of 220.3 students in K-2 at Urban Montessori Charter School.

The District and the charter school shall negotiate a Facilities Use Agreement regarding use of and payment for the space. The agreement shall contain: for shared space, the arrangements for sharing; specific location(s) of the space; all conditions pertaining to the space; the pro rata share amount; and the payment schedule. (A draft of a Facilities Use Agreement including these terms was provided with the preliminary offer.)

The space allocated by the school district will be furnished with desks and chairs, equipped with dry erase boards, and available for occupancy by the charter school ten days prior to the charter school's first day of instruction in 2012-2013 (may be reduced to seven days, for good cause).

The charter school must report actual ADA to the school district every time that the charter school reports ADA for apportionment purposes. The reports must include in-district and total ADA and in-district and total classroom ADA. The charter school must maintain records documenting the data contained in the reports. These records shall be available on request by the school district.

The charter school and the District may negotiate separate agreements and/or reimbursement arrangements for specific services not considered part of facilities costs as defined in Section 11969.7. Such services may include, but are not limited to, the use of additional space and operations, maintenance, and security services.

ANNUAL PRO RATA SHARE & PAY SCHEDULE

All charter schools that choose to accept the Proposition 39 offer to occupy District facilities will be charged a facilities use rate that represents the charter school's pro rata share of general fund expenditures for the last fiscal year for costs for building and grounds deferred maintenance, as allowed by statute and regulations.

The charter school's annual rate includes the charter school's contribution for use of classrooms and administration space, shared access to special classrooms and non-classroom space. There may be additional pro rata charges for required services to the entire facility, such as custodial services, sewer charges, and gas, water and electricity. These terms and rates will be part of the final Facilities Use Agreement.

The charter school will be charged, at the actual cost, for any extra or extended services provided by OUSD to the charter school. The charter school will be responsible for acquiring its own basic and long distance telephone service and Internet connectivity. The charter school will not be part of Oakland Unified School District's e-mail network or its '879-xxxx' telephone system. This access will be separately acquired by the charter school after consulting with OUSD facility staff regarding its installation at the site.

The pro rata share amount that the charter school will pay for this space will be \$71,198.00.

The payment schedule for the pro rata share amount, which takes into account the timing of revenues from the state and from local property taxes, is as follows:

- 25% by October 1;
- 25% by December 1;
- 25% by April 1; and
- 25% by July 1.

RESPONSE

The charter school must notify the school district in writing whether or not it intends to occupy the offered space. This notification must occur no later than 5:00 p.m., Friday, May 25, 2012 or within 30 days after District notification, whichever is later. The charter school's notification can be withdrawn or modified before this deadline as the District and charter school negotiate terms of the Facilities Use Agreement. After the deadline, if the charter school has notified the District that it intends to occupy the offered space, the charter school is committed to paying the pro rata share amount as identified. If the charter school does not notify the District by this deadline that it intends to occupy the offered space, then the space shall remain available for school district programs and the charter school shall not be entitled to use facilities of the school district in 2012-2013.

Respond to this final facility offer by fax, mail, or personal delivery, to be **received by 5:00 p.m., Friday, May 25, 2012** at the following address:

Oakland Unified School District
Office of Charter Schools
Attention: Gail Greely

HAND DELIVERY:
Tilden School
4551 Steele Street, Rm. 11
Oakland, CA 94619

FAX:
510-482-6774

EMAIL:
Gail.Greely@ousd.k12.ca.us

Please do not contact the principal currently operating at the offered campus. Contact the Office of Charter Schools to schedule a meeting to discuss any terms and conditions that would apply to the specific District site offered. These specific terms and conditions will be included in the Facilities Use Agreement. If you would like to schedule another viewing the site or if you have any questions, please contact me at (510) 336-7571 or at Gail.Greely@ousd.k12.ca.us.

Sincerely,

Gail Ann Greely
Office of Charter Schools, Coordinator

Cc: Jacqueline Minor, OUSD General Counsel
Cate Boskoff, OUSD Facilities Counsel
Dr. Anthony Smith, Superintendent
Timothy White, Assistant Superintendent, Facilities, Planning & Management
Tadashi Nakadegawa, Director of Facilities Management
David Montes, Director of Quality Community Schools Development Group
Janette Hernandez, Regional Executive Officer (Region 2)

Enclosure: Plan of Sherman Elementary

**Proposition 39 Final Offer of Facilities
Response to Charter School Concerns and/or Counter Proposal/s
Urban Montessori Charter School**

Concern: Urban Montessori is concerned that the District will not be able to obtain an E-occupancy for the offered facility (2111 International Boulevard) in time for the school's first academic activities of the school year (boot camp in early August).

- The final facilities offer is for an operating District campus and therefore no change in occupancy or permitting is required. The District is committed to meeting its obligation under Proposition 39 to make the offered space available "at least ten working days prior to the first day of instruction of the charter school" (subject to reduction to seven working days for good cause). 5 CCR §11969.9(j). The District will work with the charter school to identify District facility space that may be available for charter school use for school events that occur prior to the first day of instruction.

Concern: Urban Montessori expresses concern about the adequacy and age-appropriateness of the bathroom facilities at the offered site.

- The final facilities offer is for an operating District elementary campus, so the number and size of bathroom facilities is comparable to District schools.

Concern: Urban Montessori asks for confirmation that the outdoor parking area can be dedicated to playground space and about plans to install an age-appropriate play structure.

- The final facilities offer is for an operating District elementary campus with existing playground space.

Concern: Urban Montessori asks to discuss the possibility of making interior modifications to the **building to create larger classrooms (≈1200 sq. ft.) consistent with the Montessori approach.**

- Because the larger classroom size is not comparable to facilities at District school sites, creating larger classrooms is beyond the scope of Proposition 39. However, the District is not opposed to discussing this possibility in the context of an alternative Facilities Use Agreement for a longer term, *in lieu* of Proposition 39.

Concern: Urban Montessori wishes to discuss an earlier occupancy date to allow additional time for site preparation and an early August Montessori bootcamp.

- As discussed above, the District is committed to meeting its obligation under Proposition 39 to make the offered space available "at least ten working days prior to the first day of instruction of the charter school" (subject to reduction to seven working days for good cause). 5 CCR §11969.9(j). However, an earlier occupancy date could be considered in the context of an alternative Facilities Use Agreement for a longer term, *in lieu* of Proposition 39.

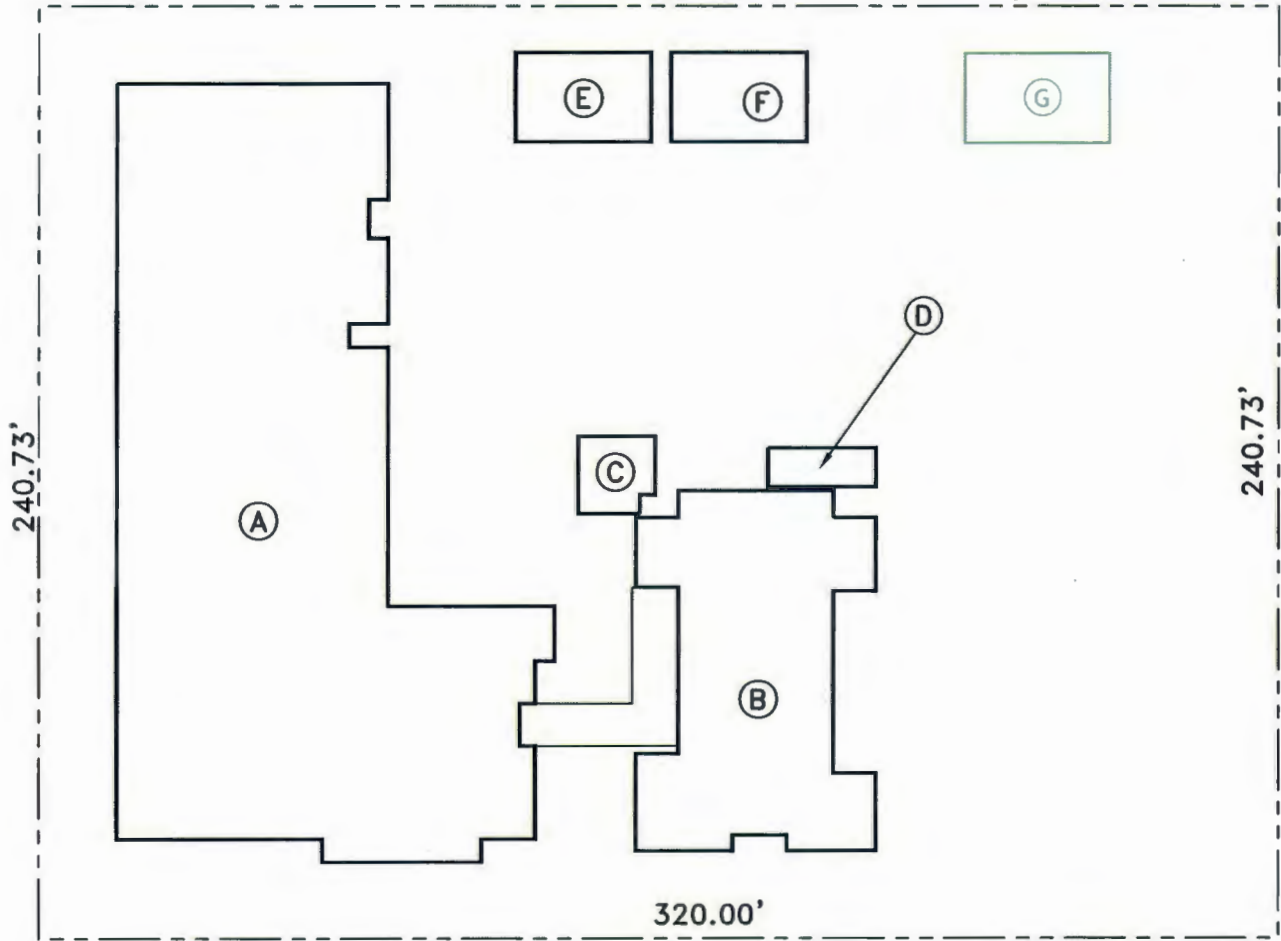
Concern: Urban Montessori asks to discuss what school furniture and fixtures will be moved into the site.

- OUSD will meet its obligations under Proposition 39 to provide furniture and equipment comparable to that provided to district schools, using a variety of measures that could include designating furniture currently at the final offer site, moving surplus furniture and equipment

located from District schools, and/or selecting furniture and equipment from the District warehouse.

CAMDEN STREET

320.00'



240.73'

320.00'

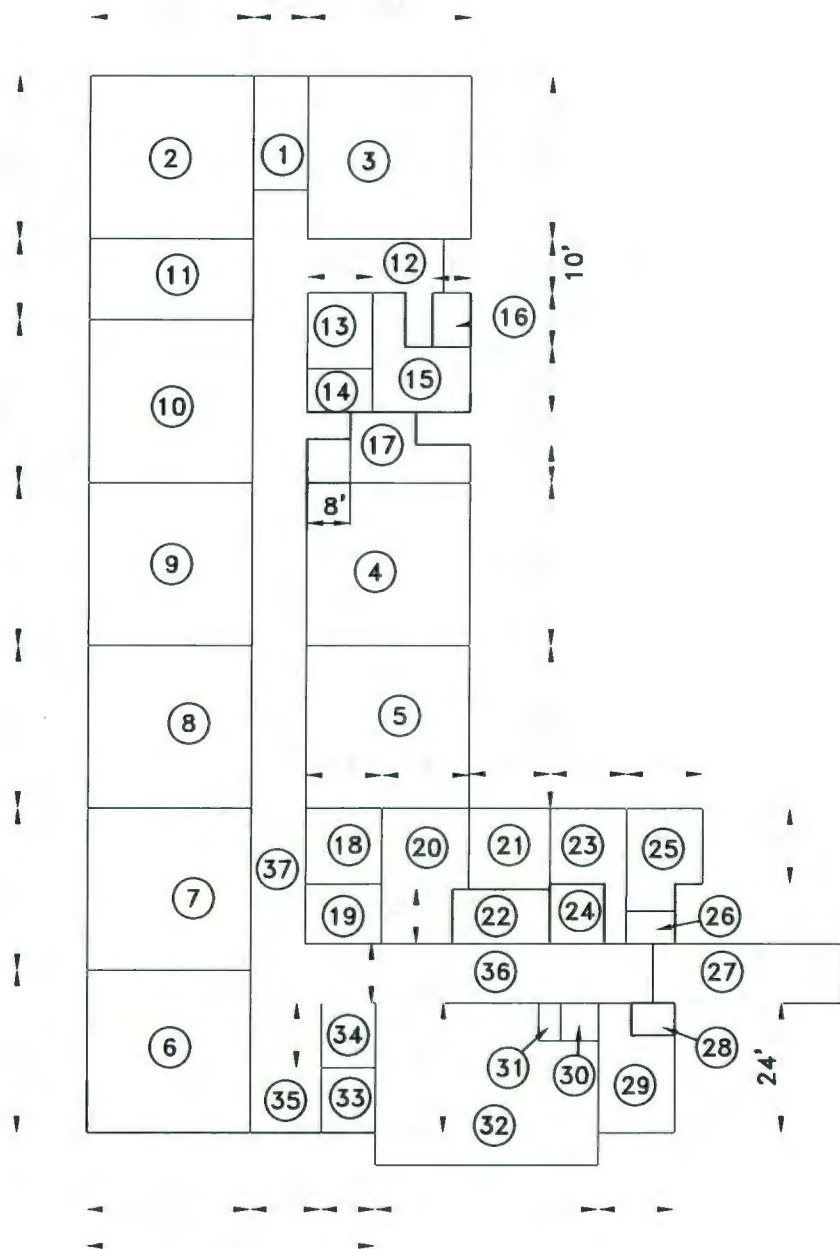
BRANN STREET



Not drawn to scale

153 - Sherman Elementary School - Site Plan

5328 Brann Street - Oakland, CA 94619-3312



Not drawn to scale



153 - Sherman Elementary School - Unit A

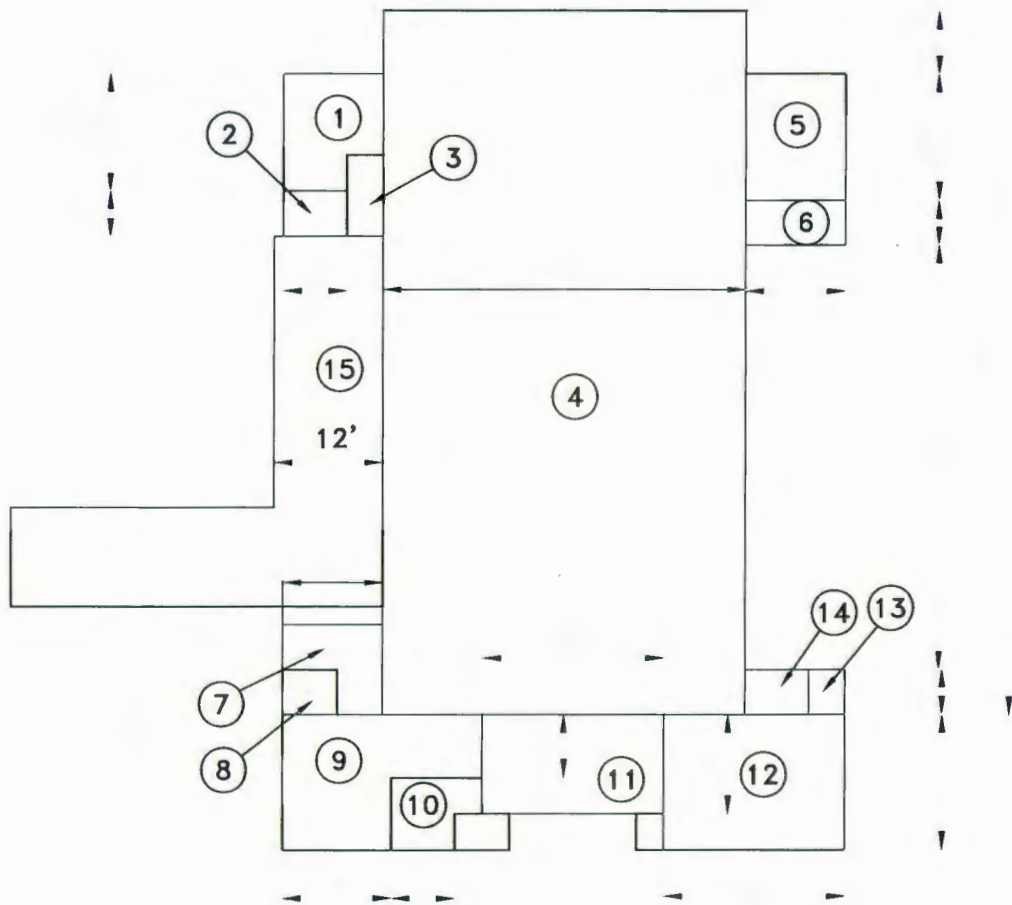
5328 Brann Street - Oakland, CA 94619-3312

WIKTHINK

www.wikthink.com 4150 Broadway Street, Suite 1000, Oakland, CA 94612
 (415) 771-9800

2011





Not drawn to scale



153 - Sherman Elementary School - Unit B

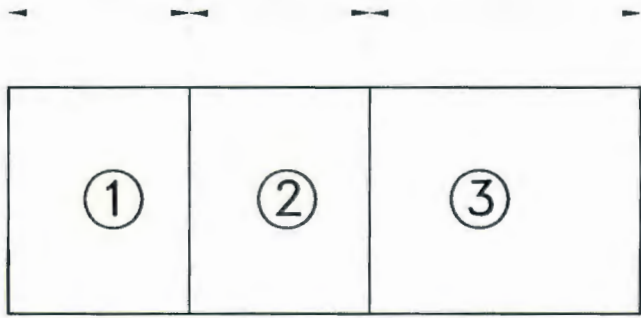
5328 Brann Street - Oakland, CA 94619-3312

MK THINK

2011



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Not drawn to scale

153 - Sherman Elementary School - Unit D

5328 Brann Street - Oakland, CA 94619-3312