



**Prop 39:
Final Facilities Offer for 2008-2009:
Bay Area Technology School**

Staff Presentation

April 30, 2008



Office of Charter Schools

- I. Timeline for 2008-2009 Facilities Offer: BayTech**
- II. Explanation of facility allocation determination**
- III. Analysis of scenarios for consideration**
- IV. Staff recommendation**
- V. Board Resolution Options**



Timeline for 2008-2009 Facilities Offer: BayTech

Stages of Process	Date	Actions
Preliminary Consideration of Facilities	February, 2008 & March, 2008	Conducted preliminary analysis of facility offer considerations
Final Offer Deadline	April 1, 2008	Mutually-agreed extension to consider alternative offers
Facility Offer Presentation	April 19, 2008	Offer of (7) classrooms at McClymonds and (6) classrooms at Westlake presented to Board for consideration
Revised Final Offer Deadline	April 21, 2008	Date by which a Final Offer was to be made to charter school
Alternative Facility Offer Presentation	April 30, 2008	Alternative Facility Offers presented to Board for consideration on April 30, 2008
2 nd Revised Final Offer Deadline	May 1, 2008	Date by which a Final Offer of facility use must be made to charter school



Explanation of Facility Allocation

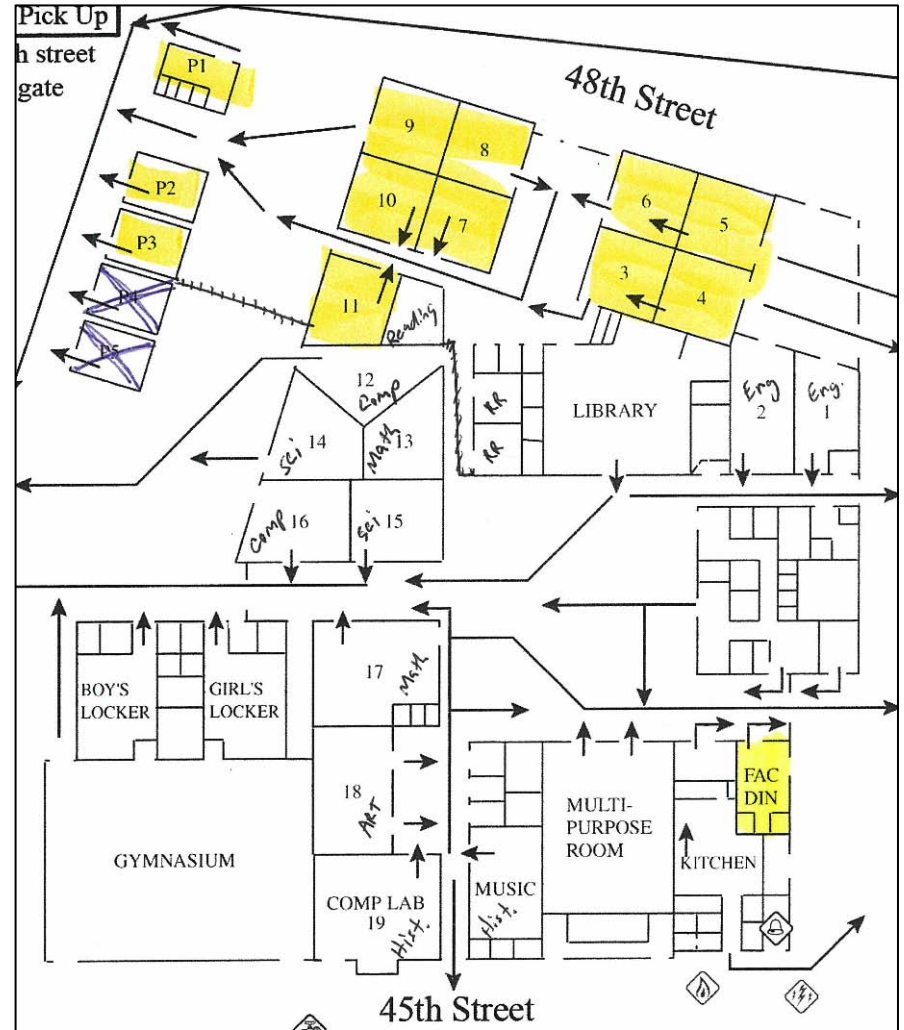
- Charter Law dictates that school districts must provide access to *“reasonably equivalent”* facilities to requesting charter schools. The law further outlines that this is to be determined based on a comparison of the facilities allocated to the schools the students would have otherwise attended.
- The table below outlines the required facility allocation to BayTech charter school based on a review of the facility use by comparison schools.

Type	Description & BayTech 2008-2009 Allocation	BayTech 08-09
Teaching Stations	<ul style="list-style-type: none"> • OUSD loading ratios based on an analysis of comparison middle and high schools is 19.5:1 • BayTech is projected to have 254 in-district students in 2008-09, which translates into 13 teaching stations 	13
Non-Teaching Stations	<ul style="list-style-type: none"> • Charter law requires <i>reasonably equivalent</i> non-teaching stations • BayTech would be provided space allocation that would accommodate a main office reception and an administrative space 	1-2 Admin. Spaces
Shared Space Use	<ul style="list-style-type: none"> • Charter law requires <i>reasonably equivalent</i> use of common spaces • BayTech would be provided use of the common areas at a rate commensurate with the percent of total campus space allocated to the charter school. 	Shared



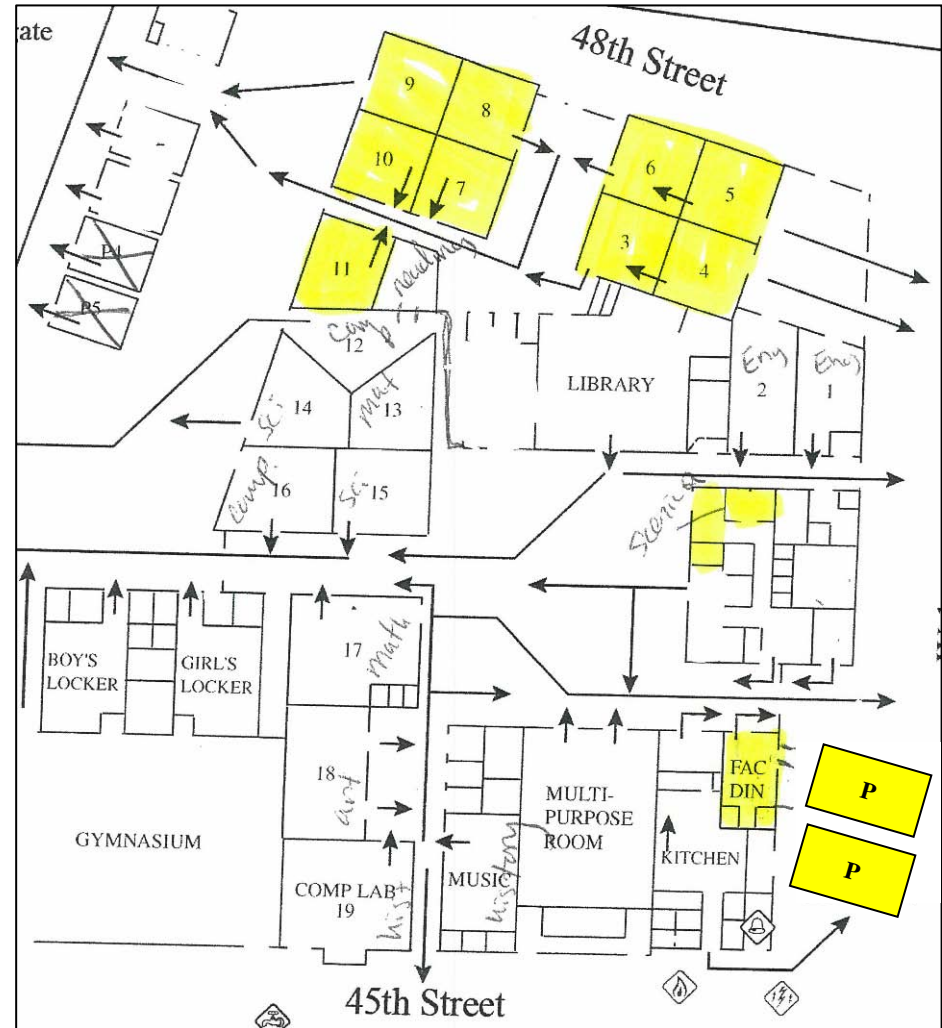
Scenario A1: Carter Campus

<p>Facilities Allocation</p>	<ul style="list-style-type: none"> • Allocation of 12 teaching stations to be co-located in the northern wing of the campus. • To include: 2 portables, 9 classrooms (Room #'s 3-11) & 1 room adjacent to Kitchen • 1 existing SPED portable for use as administrative space 	
<p>Programmatic Analysis</p>	<p>Pros</p> <ul style="list-style-type: none"> • Provides a single site and self-contained space allocation • Would involve minimal cross program interaction • Would be agreeable to both District school and charter school leadership • Site located in close proximity to current campus 	<p>Cons</p> <ul style="list-style-type: none"> • Would temporarily delay completion of Astroturf project under current portables. • Would require alternative portable allocation to Cox facility project.



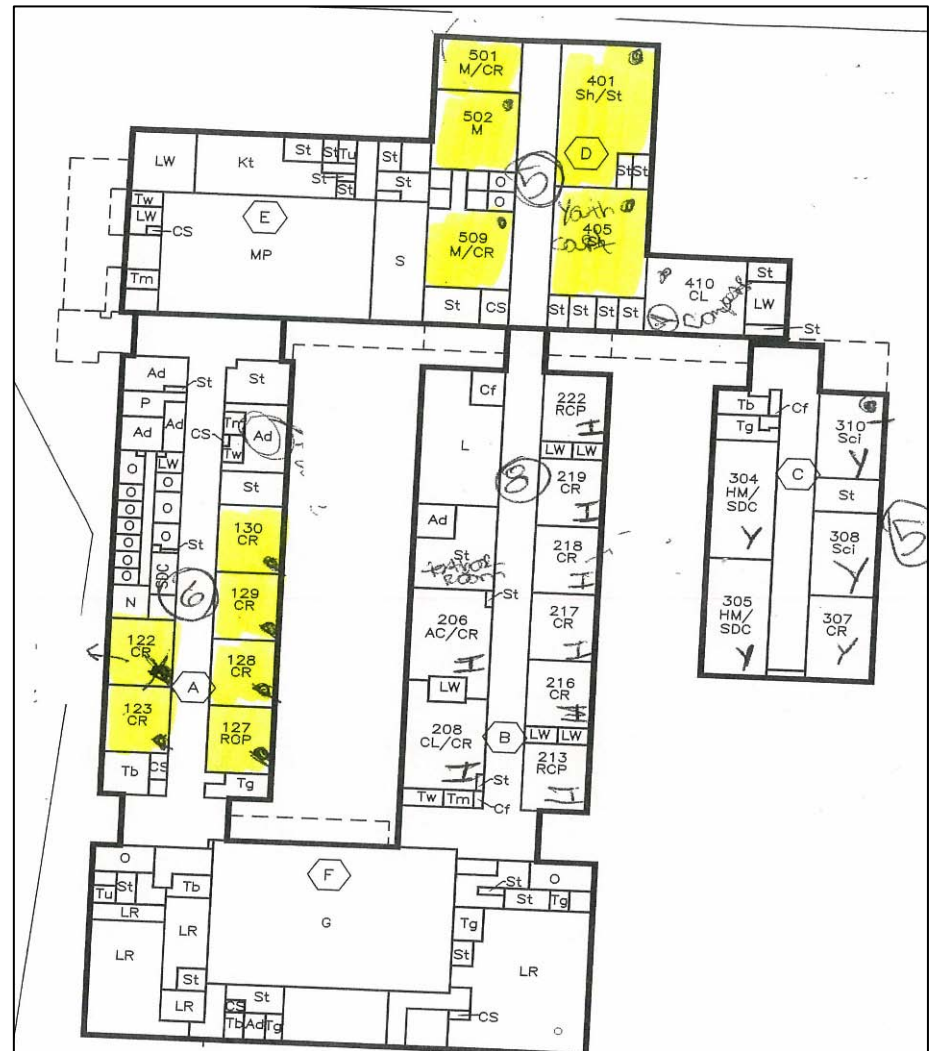
Scenario A2: Carter Campus

<p>Facilities Allocation</p>	<ul style="list-style-type: none"> • Allocation of 12 teaching stations to be co-located in the northern wing of the campus. • To include: 2 portables, 9 classrooms (Room #'s 3-11) & 1 room adjacent to Kitchen • Administrative spaces allocated within Admin. Building 	
<p>Programmatic Analysis</p>	<p>Pros</p> <ul style="list-style-type: none"> • Provides a single site and self-contained space allocation • Would involve minimal cross program interaction • Would be agreeable to both District school and charter school leadership • Site located in close proximity to current campus 	<p>Cons</p> <ul style="list-style-type: none"> • Would incur costs associated with the installation of two portables



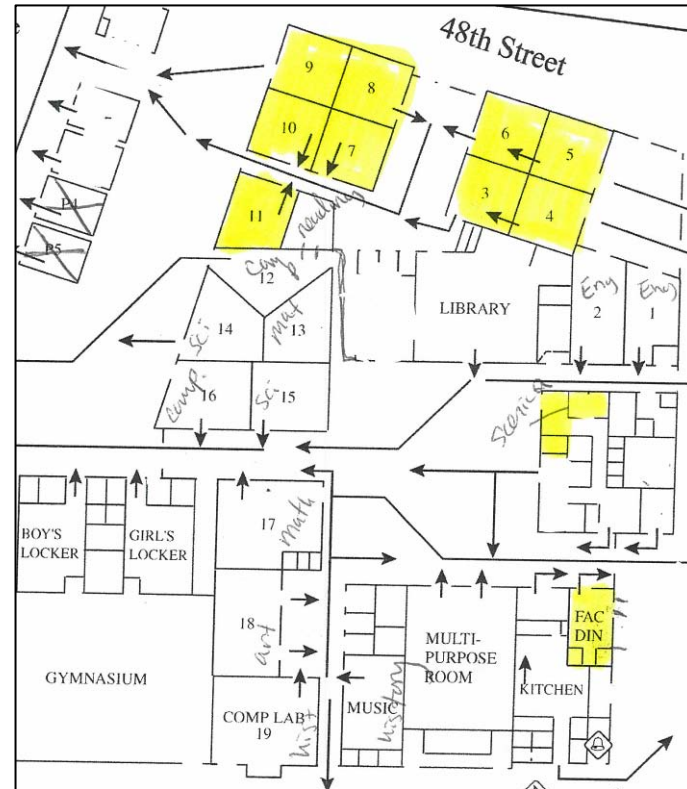
Scenario B: King Estates Campus

Facilities Allocation	<p>Allocation of 11 teaching stations to be located in the main wing and within shop/music wing</p> <p>To include: <i>one large shop space</i> for possible conversion to two teaching stations</p> <p>Allocation of administrative space within main wing</p>	
Programmatic Analysis	Pros	Cons
	<ul style="list-style-type: none">• Provides a single site and self-contained space allocation	<ul style="list-style-type: none">• Would require the relocation of current programming such as youth court and after school use.• Would reduce facility allocation by one teaching station• Site location is not in close proximity to current school campus

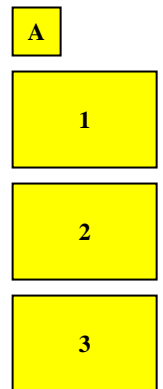


Scenario C: Carter and McClymonds Campus

Facilities Allocation	<p>Allocation of 10 teaching stations at Carter & 3 teaching stations at McClymonds</p> <p>Allocation of 2 non-teaching spaces at Carter and 1 non-teaching space at McClymonds for administrative use.</p>					
Programmatic Analysis	<table border="1"> <thead> <tr> <th data-bbox="344 546 599 611">Pros</th> <th data-bbox="599 546 881 611">Cons</th> </tr> </thead> <tbody> <tr> <td data-bbox="344 611 599 1220"> <ul style="list-style-type: none"> • Provides a compliant facility commensurate with required facility allocation • Does not incur upfront costs to District </td> <td data-bbox="599 611 881 1220"> <ul style="list-style-type: none"> • Split campus presents significant supervision challenges • Split campus presents significant programmatic challenges • Impact on two school campuses • Would result in 3rd high school on McClymonds campus </td> </tr> </tbody> </table>	Pros	Cons	<ul style="list-style-type: none"> • Provides a compliant facility commensurate with required facility allocation • Does not incur upfront costs to District 	<ul style="list-style-type: none"> • Split campus presents significant supervision challenges • Split campus presents significant programmatic challenges • Impact on two school campuses • Would result in 3rd high school on McClymonds campus 	
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Carter Campus

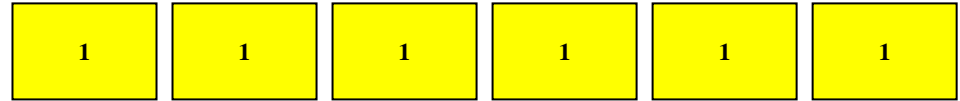


McClymonds Campus



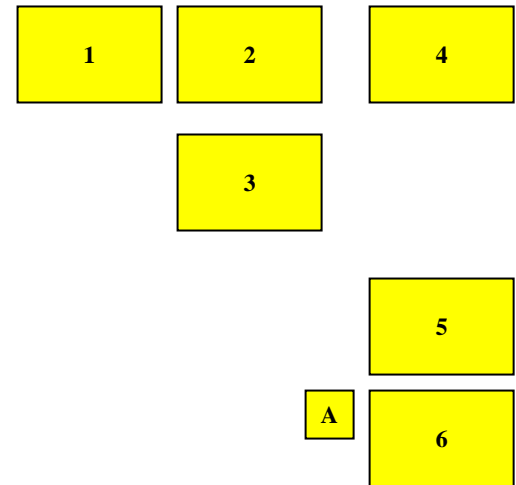
Scenario D: Westlake and McClymonds Campus

Facilities Allocation	<p>Allocation of 10 teaching stations at Carter & 3 teaching stations at McClymonds</p> <p>Allocation of 1 non-teaching spaces at Carter and 1 non-teaching space at McClymonds for administrative use.</p>					
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A

Westlake Campus



McClymonds Campus



Staff Recommendation

- I. **Staff recommends Option A1** as this scenario would have the least negative programmatic impact on affected schools, and would address the concerns raised by the Board regarding:
 - A. Split campus challenges
 - B. Impact on existing District programs
 - C. Proximity to existing charter program location

- II. **Charter school factors:**
 - A. Current charter school lease rate is **\$21.00** per sq. ft., per year
 - B. Landlord has raised lease rate for 2008-09 to **\$24.00** per sq. ft., per year
 - C. Lease rate under Prop. 39 is **\$2.71** per sq. ft., per year **plus** all associated Facility Use Costs (*custodial, utilities, maintenance, operations, etc.*)
 - D. Current landlord intends to place ***“For Lease”*** sign on school entrance as of May 1, 2008
 - E. Charter school is a candidate for **Prop 1D** facility grant
 - F. Charter school recognizes Prop. 39 facilities offer as a ***temporary solution***



Board Resolution Options

- I. The following Table represents the associated information to be included in the board resolution and Final Facilities Offer, contingent on the approved board action.

PROPOSED SITE	TEACHING STATIONS	NON-TEACHING STATIONS	SQUARE FOOTAGE	LEASE RATE AT \$2.71/SF
A1. Carter	12	2	14,572	\$39,491
A2. Carter	12	2	14,572	\$39,491
B. King Estates	11	2	12,289	\$33,304
C. Carter/McClymonds	13	3	25,060	\$67,913
D. Westlake/McClymonds	13	3	43,778	\$118,637



OAKLAND UNIFIED SCHOOL DISTRICT
Office of Community Accountability

April 30, 2008

Legislative File

File ID No.: 08-0824

Introduction Date: 04-30-08

Enactment No.: _____

Enactment Date: _____

By: _____

TO: Board of Education
Vincent Matthews, State Administrator

FROM: Kirsten Vital, Chief of Community Accountability
David Montes de Oca, Coordinator; Office of Charter Schools

SUBJECT: Prop. 39 Final Facility Offer 2008-2009 School Year

ACTION REQUESTED:

Approval by Board of Education of Resolution No. 0708-0186 - the proposed Final Facilities Offer to be made by the District to Bay Area Technology School under the Proposition 39 Statute, as determined by the Board, 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. The staff recommends approval of Option A1.

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 2008-2009, 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 1, 2008 and in turn must respond to that offer no later than May 1, 2008. To best meet the needs of both the district and the school, a mutually agreed-upon extension provided a timeline whereby the final offer must be made by May 1, 2009, with a response to the offer due no later than June 1, 2008. 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 lease agreement, as well as the expectations established for the equitable sharing of facilities between the school site administrators.

The lease rate under which the Final Facilities Offer will be made is established at a rate to be \$2.71 per square foot, per year, based on an analysis by General Counsel as to the applicable costs associated with statute.

The calculation of square footage allocation to be leased 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 statute 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 Letter of Agreement which will define the scope of the lease terms. The period under which these facilities will be offered by use of the requesting charter school is for one academic school year only; 2008-2009. 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 Bay Area Technology School under Proposition 39, as may be determined by the Board. The staff recommends approval of Option A1.



OAKLAND UNIFIED SCHOOL DISTRICT

Office of the State Administrator
1025 Second Avenue, Room 301
Oakland, CA 94606
Phone (510) 879-8200
Fax (510) 879-8800

RESOLUTION
OF THE
GOVERNING BOARD
OF THE
OAKLAND UNIFIED SCHOOL DISTRICT

Resolution No. 0708-0186

Proposition 39 – 2008-2009 School Year Offer(s) of District Facilities To Charter School(s)

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 2008-2009 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 2008-2009 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 May 1, 2008, based on a mutually agreed upon extension of the statute requirement of April 1, 2008; 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, no later than June 1, 2008; and,

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

RESOLUTION
OF THE
GOVERNING BOARD
OF THE
OAKLAND UNIFIED SCHOOL DISTRICT

Resolution No. 0708-0186

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WHEREAS, the lease rate associated with the facility offer proposed here-in considers all applicable costs that may be included in the pro rata lease 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 2008-2009 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 expulsive use and teaching and non-teaching space to be shared
- The arrangements for shared space
- The in-District classroom ADA assumptions for the charter school
- Pro rata share amount and payment schedule; and,

NOW, THEREFORE, BE IT RESOLVED, the Governing Board hereby makes said offers, summarized herein, as follows for the 2008-2009 School Year to the Charter School named below:

<p>Bay Area Technology School 6-10 (2008-09)</p>	<p><u>ENROLLMENT:</u> In-District ADA: XXX Total in-district enrollment based on most relevant attendance rate: XXX</p>	<p><u>RATIO:</u> Ratio applied to in-district enrollment based on an evaluation of equivalent facility allocation to comparison district school students: 19.5</p>	<p><u>TEACHING STATION ALLOCATION:</u> Total teaching station (classroom) allocation: 13 classrooms</p>
<p><u>FINAL FACILITIES OFFER:</u> XXXXXX Campus - XX classrooms XXXX Campus - XX classrooms</p>	<p><u>PRO RATA SHARE LEASE RATE:</u> Total Square Footage of the Facility space included in Final Offer: XX,XXX SF Annual Lease Rate \$2.71 per square foot, per year. Total Annual Lease Rate pursuant to this offer: \$XXX,XXX</p>	<p><u>NON-TEACHING STATION ALLOCATION:</u> Final Facilities Offer to Include shared use of the cafeteria, blacktop, gymnasium, and quad commensurate with the percentage of total facility space allocated for exclusive use by the charter school. XXXXX Facility: Exclusive use of one non-teaching space for use as administrative space. XXXXX Facility: Exclusive use of one non-teaching space for use as administrative space.</p>	

RESOLUTION
OF THE
GOVERNING BOARD
OF THE
OAKLAND UNIFIED SCHOOL DISTRICT

Resolution No. 0708-0186

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BE IT FURTHER RESOLVED that any such offer accepted not later than June 1, 2008 by Charter School shall be formalized by a mutually approved Facility Use or Lease Agreement between the District and the Charter School.

Passed by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

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 30, 2008.

Edgar Rakestraw, Jr.
Secretary, Board of Education

Office of Charter Schools

1025 Second Avenue Rm. 206
Oakland, CA 94606
P: 510.879.8349 F: 510.879.1844

www.ousdcharters.com



every student. every classroom. every day.

May 1, 2008

Oscar Yildiz, Director
Bay Area Technology School
1920 Telegraph Avenue
Oakland, CA 94612

**Certified Mail &
Fax**

**RE: PROP 39 2008-2009 FINAL FACILITY SPACE OFFER
BayTech – XXXX Campus, XXX XXX.,**

Dear Mr. Yildiz:

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.

2008-2009 FINAL SPACE OFFER

Oakland Unified School District (OUSD) received facility requests from many charter schools operating in Oakland and OUSD identified an inventory of facility spaces that are available to fulfill these requests. 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.

OUSD's **final** Prop 39 facility offer is to occupy space for **one year only** at the **XXX Campus**, located at XXX XXXX, sharing with XXX.

This Final Offer includes a re-calculation of the original facility space offer based on a loading ratio believed to better represent the equivalent facility allocation students attending BayTech would receive if attending District schools. The fee rate included in this offer is based on the applicable sections of Education Code section 47614.

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 s 11969.9 Cal. Admin. Code tit. 5, s 11969.9).

PROP 39 2007-2008 FINAL FACILITY SPACE OFFER
From Oakland Unified School District (OUSD)
To BayTech
For the 2008-2009 School Year Only

- Exclusive use of **XX (X)** classrooms at the **XXXX Campus**
- Exclusive use of **XX (X)** non-teaching space within the **XXXX Campus**
- Shared use of the gym, multi-purpose room/cafeteria, outdoor space, and parking.

This offer is based on an in-district classroom ADA assumption of 254 students in grades 6-10 at BayTech.

The school district and the charter school shall negotiate a Facility Use Agreement regarding use of and payment for the space. The agreement shall contain at a minimum, the information included in this notification provided by the school district to the charter school. In addition, the school district requires that the agreement shall provide that the charter school shall:

- (1) Maintain liability insurance naming the school district as an additional insured to indemnify the school district for damage and losses for which the charter school is liable; and/or
- (2) Comply with school district policies regarding the operations and maintenance of the school facility and furnishings and equipment.

The space allocated by the school district will be furnished with desks and chairs, equipped with whiteboards, and available for occupancy by the charter school seven days prior to the charter school's first day of instruction in 2008-2009.

The charter school will negotiate the arrangements for sharing the shared space with OUSD and the **XXXX** principal or designees. These arrangements will be described in the Facility Use Agreement.

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 school 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 Prop 39 offer to occupy OUSD facilities will be charged a lease rate that represents the charter school's pro-rated 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 basic lease rate includes the charter school's contribution for use of classrooms and administration space, shared access to special classrooms and non-classroom space. There will 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 a final Facility Use Agreement. Utilities charges, etc. are divided between the charter school and the K-12 program by a percentage of the facility space the charter occupies. The accountant in the Office of Charter Schools coordinates with Accounts Payable to ensure that the charter pays its portion of the required bills.

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 the district's e-mail network or its '879-xxxx' telephone system. This access would 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 **\$XX,XXX**.

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:

- 18% by August 15 or prior to occupancy, whichever is earlier;
- 8% by the 15th of September, October, November, December, and January,
- 14% by February 15; and
- 7% by the 15th of, March, April, May and June.

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 by 4:30 p.m., Monday, June 2, 2008 which is 30 days after the school district notification. The charter school's notification can be withdrawn or modified before this deadline as the school district and charter school negotiate terms of the Facility Use Agreement. After the deadline, if the charter school has notified the school 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 school 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 2008-2009.

Respond to this Final Offer by fax, mail, or personal delivery to be **received by 4:30 p.m., Monday, June 2, 2008** at the following address:

Oakland Unified School District
Office of Charter Schools, Room 206
Attention: David Montes de Oca

MAIL or DELIVERY:
1025 Second Avenue Rm. 206
Oakland, CA 94606-2212

FAX:
510-879-1844

Please do not contact the principal currently operating at the sites. Contact the Office of Charter Schools to schedule meeting with the host schools' principals and discussing the co-location terms and conditions that would apply to the specific district sites offered. These specific terms and conditions will be included in the Facility Use Agreement.

If you would like to schedule another viewing the site or if you have any questions, please contact me at David.Montes@ousd.k12.ca.us.

Sincerely,

David Montes de Oca
Office of Charter Schools, Coordinator

Cc: Deborah A. Cooksey, OUSD General Counsel
Cate Boskoff, OUSD General Counsel
Fred Brill, Executive Officer
Alison McDonald, Executive Officer
Tadashi Nakadegawa, Director of Facilities Management
Allison Sands, School Portfolio Management
Kirsten Vital, Chief of Community Accountability
Vincent Matthews, State Administrator
Edgar Rakestraw, Jr., Secretary, Governing Board

Enclosure