

OAKLAND UNIFIED SCHOOL DISTRICT
Office of the Superintendent

March 27, 2013

Legislative File

File ID No.: 13-0539

Introduction Date: 3/13/13

Enactment No.: 13-0482

Enactment Date: 3-27-13

By: 

TO: Board of Education

FROM: Anthony Smith, Ph.D., Superintendent
Philip Dotson, Acting Coordinator, Office of Charter Schools

SUBJECT: Prop. 39 Final Facility Offer 2013-2014 School Year

ACTION REQUESTED:

Approve the proposed Final Facilities Offer to be made by the District to Bay Area Technology 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 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.
- The location requested and the location available.

Following a review of current projected use of District facilities for the academic school year 2013-2014, 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, 2013 and in turn must respond to that offer no later than May 1, 2013. 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 \$3.78 per square foot, per year, based on an analysis by Facilities Counsel and the Chief Financial Officer 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:

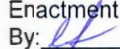
Under the California Education Code Section 47614: *"Each school district shall make available, to each charter school operating in the school district, facilities sufficient for the charter school to accommodate all of the charter school's in-district students in conditions reasonably equivalent to 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: 2013-2014**. 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 outlined in attached resolution.

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By: 

RESOLUTION OF THE
GOVERNING BOARD OF THE
OAKLAND UNIFIED SCHOOL DISTRICT

Resolution No. 1213-0113

Proposition 39 – 2013-2014 School Year Offer(s) of District Facilities To Charter School(s): Bay Area Technology School

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 2013-2014 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;
- 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 2013-2014 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 1, 2013; 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, 2013; 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 2013-2014 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
- 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 2013-2014 School Year to the Charter School named below:

<p>6-12 grades served (2013-14)</p>	<p><u>ENROLLMENT:</u> In-District ADA: 222 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: 25.40</p>	<p><u>TEACHING STATION ALLOCATION:</u> Total teaching station allocation: 12 teaching stations</p>
<p><u>FINAL FACILITIES OFFER:</u> Kings Estate (see map)</p> <p>- 12 teaching stations identified within the attached map</p> <p>- 8 non-teaching spaces identified within the attached map</p> <p>- Shared access to shared spaces as identified</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>29,268 sq ft (calculated based on exclusive use and percentage of shared use space)</p> <p>Annual Facility Use Rate \$3.78 per square foot, per year.</p> <p>Total Facility Use Rate pursuant to this offer: \$110,633.00</p>	<p><u>SHARED ACCESS TO SHARED SPACE:</u> Final Facilities Offer to include shared use of [shared spaces] commensurate with the percentage of total facility space allocated for exclusive use by the charter school (see map).</p>	


BE IT FURTHER RESOLVED that any such offer accepted not later than May 1, 2013 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 March 27, 2013.

Passed by the following vote:

AYES: **Jody London, Gary Yee, Christopher Dobbins, James Harris,
Vice President Jumoke Hinton Hodge and President David Kakishiba**
NOES: **None**
ABSTAINED: **None**
ABSENT: **Roseann Torres**

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 March 27, 2013.


Edgar Rakestraw, Jr.
Secretary, Board of Education

File ID Number: 13-0539
Introduction Date: 3-13-13
Enactment Number: 13-0482
Enactment Date: 3-27-13
By: H

April 1, 2013

Hayri Hatipoglu
Bay Area Technology School
8251 Fontaine St.
Oakland, CA 94605

Certified Mail &
Fax

RE: **Proposition 39 Final Facility Offer
King Estates campus, 8251 Fontaine Street Oakland**

Dear Hayri Hatipoglu:

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 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.
- The location requested and the location available.

On February 1, 2013, the District provided your charter school a Proposition 39 preliminary facility offer to occupy space for one year only at Kings Estate, 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).

**2013-2014 Proposition 39 Final Facility Offer
From Oakland Unified School District
To Bay Area Technology School
For the 2013-2014 School Year Only**

- Exclusive use of 12 classrooms at 8251 Fontaine Street, Oakland, CA.
- Exclusive use of 8 non-teaching spaces within King Estates , 8251 Fontaine Street, Oakland, CA.
- Shared use of cafeteria, gym, gym work-out rooms, yard and fields.

This offer is based on an in-district classroom ADA assumption of 222 students in grades 6-12 at Bay Area Technology 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 available for occupancy by the charter school no later than seven days prior to the charter school's first day of instruction in 2013-2014.

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 or otherwise contemplated in the draft facility use agreement. 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 **\$110,633.00**.

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., Tuesday, May 1, 2013 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 2013-2014.

Respond to this final facility offer by fax, mail, or personal delivery, to be received by 5:00 p.m., Wednesday, May 1, 2013 at the following address:

Oakland Unified School District
Office of Charter Schools
Attention: Philip Dotson

HAND DELIVERY:

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

FAX:

510-482-6774

EMAIL:

philip.dotson@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) 336-7576 or at Philip.dotson@ousd.k12.ca.us.

Sincerely,

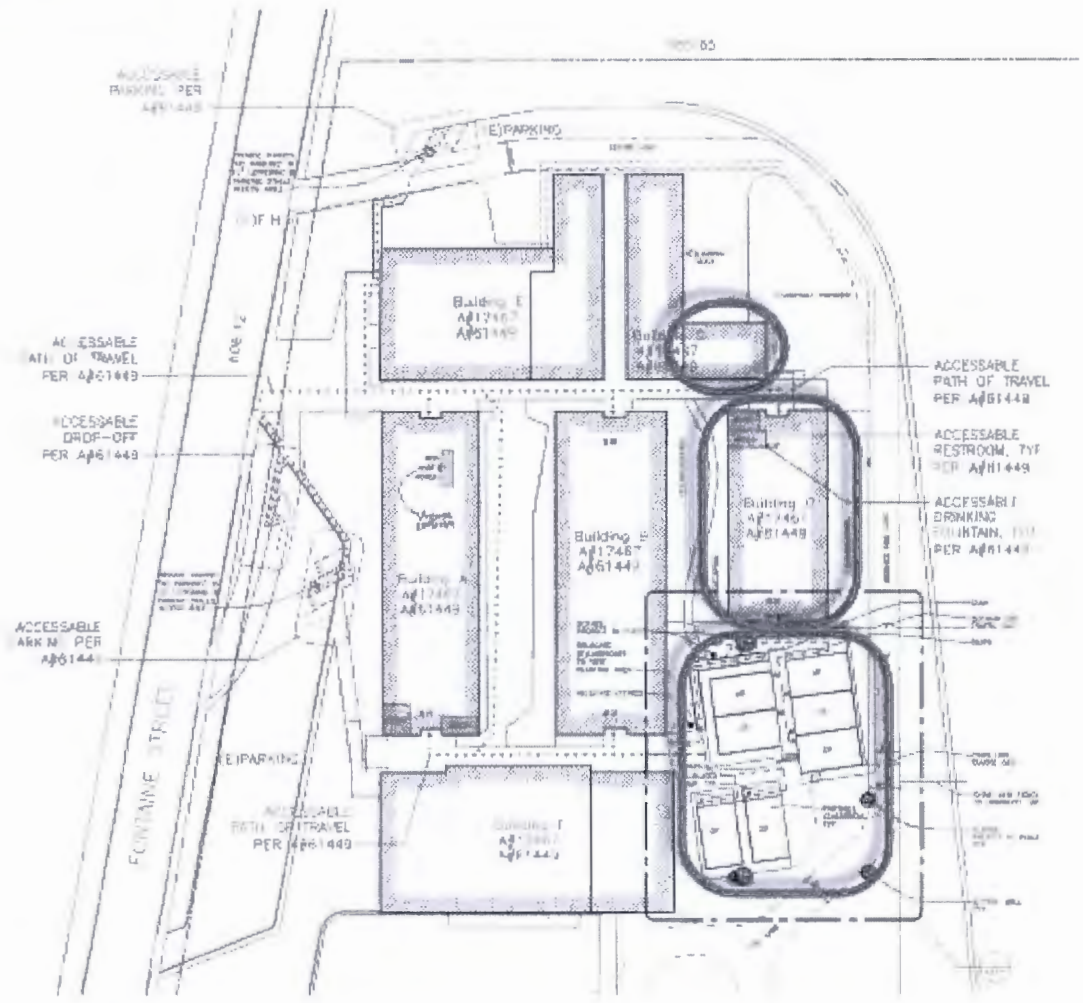
Philip J. Dotson
Office of Charter Schools, Coordinator

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 de Oca, Director of Quality Community Schools Development Group

Enclosure: Plan of [campus]

Proposition 39 Offer: Bay Tech at King Estates Middle School

WHOLE CAMPUS VIEW:

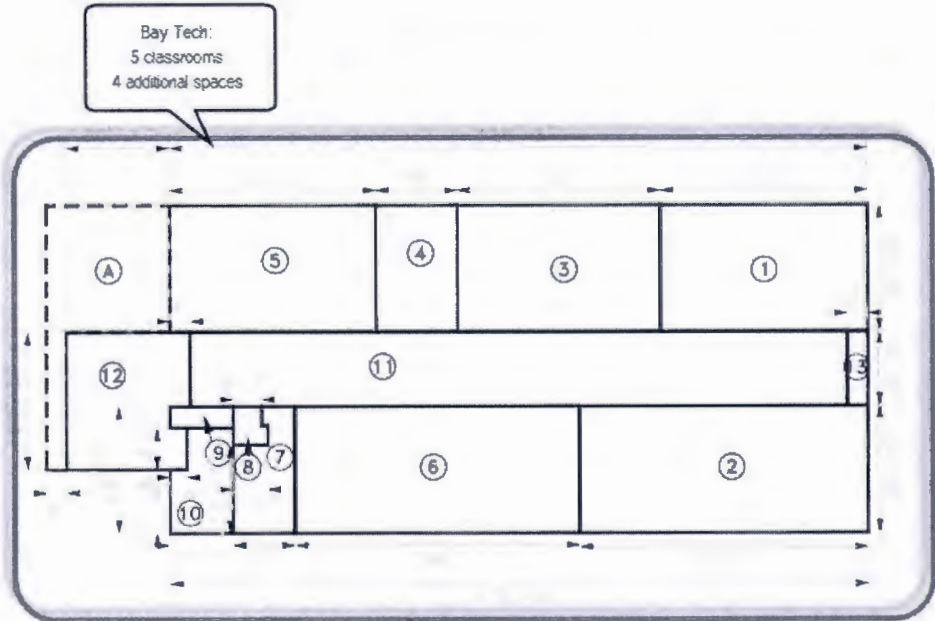


Total Classrooms:
 Building C: 5 classrooms
 Portables: 7 classrooms
 Total: 12 classrooms

Additional Spaces:
 Building C: 4 spaces
 Building D: 4 spaces
 Total: 8 spaces

Proposition 39 Offer: Bay Tech at King Estates Middle School

BUILDING C:



BUILDING D:

