



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

TO: Vincent Matthews, State Administrator
& Members of the OUSD Board of Education

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

DATE: March 19, 2008

RE: Prop. 39 Final Facility Offers
2008-2009 School Year

REVISED

5:37 pm, Mar 15, 2008

ACTION REQUESTED:

Approve the proposed Final Facilities Offers to be made by the District 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 Offers under Proposition 39; as outlined in Attachment A with the specific facility space allocations included in the attached DRAFT Final Facilities Offer Letter under Attachment B.

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 Attachment A 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. 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 \$3.06 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."*

Attachment A outlines the total square footage and teaching stations to be included in the Final Facilities Offer under Proposition 39. Attachment B includes Draft copies of the Proposition 39 Final Facilities Offer Letters with 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 Offers under Proposition 39 as outlined in Attachments A and B.

ATTACHMENT A: Summary of Proposition 39 Final Facilities Offers

<p>LPS College Park 9-12 (2008-09)</p>	<p><u>ENROLLMENT:</u> In-district ADA: 342</p> <p>Total in-district enrollment based on most relevant attendance rate: 383</p>	<p><u>RATIO:</u> Ratio applied to in-district enrollment based on an evaluation of equivalent facility allocation to district school students: 20.2</p>	<p><u>CLASSROOM ALLOCATION:</u> Total teaching station allocation: 19 classrooms</p>
<p><u>Final Facilities Offer:</u> Castlemont Campus - Building 100 (19 classrooms) - One (1) additional classroom adjacent to Building 100 (TBD)</p>	<p><u>SQUARE FOOTAGE – LEASE RATE:</u> Total Square Footage included in Final Offer: 49,278 SF</p> <p>Annual Lease Rate: \$133,543.00</p>	<p><u>ADDITIONAL NON-TEACHING ALLOCATION:</u> <i>Final Facilities Offer to include - One (1) additional classroom adjacent to Building 100 (TBD), equivalent use of shared facilities with a schedule of use to be determined pursuant to a joint use agreement established by all site administrators.</i></p>	

ATTACHMENT B: DRAFT Proposition 39 Final Facilities Offer Letter

Office of Charter Schools
1025 Second Avenue Rm. 206
Oakland, CA 94606
P: 510.879.8349 F: 510.879.1844

www.ousdcharters.com



OAKLAND UNIFIED
SCHOOL DISTRICT

expect Success

every student. every classroom. every day.

April 1, 2008

Jonathan Faustine, Chief Operating Officer
Leadership Public Schools
2601 Mission Street, 9th Floor
San Francisco, CA 94110

Certified Mail &
Fax

**RE: PROP 39 2007-2008 FINAL FACILITY SPACE OFFER
LPS-College Park – Castlemont Campus, 8601 MacArthur Blvd.**

Dear Mr. Faustine:

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, 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.

On February 4, 2008, Oakland Unified School District (OUSD) provided your charter school a preliminary Prop 39 facility offer to occupy space for one year only at Castlemont Campus located at 8601 MacArthur Blvd., sharing with other schools. You replied that your charter school would be interested in occupying these facilities. In your initial response to this Preliminary Offer you contested the loading calculations and proposed fee rate, as well as requested resolution to "Ongoing Facilities Issues".

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 LPS-College Park would receive if attending District schools. The fee rate included in this offer is based on the applicable sections of Education Code section 47614. The "Ongoing Facilities Issues" will be discussed and negotiated as a follow-up to an acceptance of this final facility space offer.

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 LPS-College Park
For the 2007-2008 School Year Only

- Exclusive use of nineteen (19) classrooms at the 100 Building of the Castlemont Community of Schools site, 8601 MacArthur Blvd. 94605
- Exclusive use of one (1) classroom located adjacent to the 100 Building of the Castlemont Community of Schools site, 8601 MacArthur Blvd. 94605
- Exclusive use of all non-teaching spaces within the 100 Building of the Castlemont Community of Schools site, 8601 MacArthur Blvd. 94605
- 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 342 students in grades 9-12 at LPS-College Park.

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 2007-08.

The charter school will negotiate the arrangements for sharing the shared space with OUSD and the Cole principal or designee. 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 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 would be part of a final Facility 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 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 \$150,791.

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., Thursday, May 1, 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 2007-08.

Respond to this Final Offer by fax, mail, or personal delivery to be **received by 4:30 p.m., Thursday, May 1, 2008** at the following address:

Oakland Unified School District
Office of Charter Schools, Room 301
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 site. Contact the Charter Schools Office to schedule meeting with the host school's principal and discussing the co-location terms and conditions that would apply to the specific district site 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
Wendy Gudalewicz, Executive Officer
Tadashi Nakadegawa, Director of Facilities Management
Allison Sands, School Portfolio Management
Kirsten Vital, Chief of Community Accountability
Vincent Matthews, State Administrator

Enclosure



OAKLAND UNIFIED SCHOOL DISTRICT

Office of the State Administrator

1025 Second Avenue, Room 301

Oakland, CA 94606

Phone (510) 879-8200

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RESOLUTION
OF THE
STATE ADMINISTRATOR
OF THE
OAKLAND UNIFIED SCHOOL DISTRICT

Resolution No. 0708-0166

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 offer 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 such requests with space available, if any, within the District; and,

WHEREAS, District staff specifically 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; 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 offer to Charter Schools; and,

WHEREAS, the District presently is required to make such Final Facility Use Offers not later than April 1, 2008 and offers made must be responded to by a Charter School no later than May 1, 2008,

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

Summary of Proposition 39 Final Facilities Offers

<p>LPS College Park 9-12 (2008-09)</p>	<p><u>ENROLLMENT:</u> In-district ADA: 342 Total in-district enrollment based on most relevant attendance rate: 383</p>	<p><u>RATIO:</u> Ratio applied to in-district enrollment based on an evaluation of equivalent facility allocation to district school students: 20.2</p>	<p><u>TEACHING STATION ALLOCATION:</u> Total classroom allocation: 19 classrooms</p>
<p><u>Final Facilities Offer:</u> Castlemont Campus - Building 100 (19 classrooms) - One (1) additional classroom adjacent to Building 100 (TBD)</p>	<p><u>SQUARE FOOTAGE – LEASE RATE:</u> Total Square Footage included in Final Offer: 49,278 SF Annual Lease Rate: \$2.71 per square foot, per year. Total Annual Lease Rate \$133,534.00</p>	<p><u>ADDITIONAL NON-TEACHING ALLOCATION:</u> <i>Final Facilities Offer to include one (1) additional classroom for administrative purposes adjacent to Building 100 (TBD), equitable use of shared facilities with a schedule for use to be determined pursuant to a joint use agreement established by all site administrators.</i></p>	

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

I hereby certify that the foregoing is a full, true, and correct copy of a Resolution passed at a Special Meeting of the State Administrator and/or the Board of Education of the Oakland Unified School District held on March 19, 2008.

Vincent Matthews
State Administrator
Oakland Unified School District

VM:DMO:ER:er