



Tuesday, April 30, 2019

Sonali Murarka
Office of Charter Schools
Oakland Unified School District
1000 Broadway, Suite 639
Oakland, CA 94607

***Re: Francophone Charter School of Oakland
Response to District's Final Offer
Proposition 39 2019-2020***

Dear Ms. Murarka:

Francophone Charter School of Oakland (“Francophone” or “Charter School”) is in receipt of the Oakland Unified School District’s (“District”) April 1, 2019 letter (“Final Offer”) regarding Francophone’s request for facilities under Proposition 39 (“Prop. 39”) for the 2019-2020 school year.

The District’s Final Offer is for a total of six (6) teaching stations and 100% of the remaining space on the Toler Heights campus, as well as six (6) teaching stations and 37.1% shared use of the non-teaching station space at Howard Elementary School site. The Final Offer is based on a projected in-District ADA of 205.20.

Section 11969.9(i) of the Prop. 39 Implementing Regulations (the “Implementing Regulations”) requires the Charter School to notify the District whether or not the Charter School intends to occupy the offered spaces. Accordingly, despite the deficiencies in the Final Offer (which are identified herein to the extent practicable, with all rights reserved) and as set forth in the response to the Preliminary Offer (“Response”), which is incorporated here by reference, the Charter School accepts and intends to occupy the offered spaces, without acknowledging their sufficiency under applicable local, state, or

Sonali Murarka

Office of Charter Schools

*Re: Francophone Charter School of Oakland
Response to District's Final Offer
Proposition 39 2019-2020*

April 30, 2019

Page 2

federal law and without waiving any of its legal rights under applicable local, state, or federal law, including Proposition 39 rights and remedies except as agreed by the Parties.

The District has incorrectly calculated the Facility Use Fee for Howard. As stated in the Final Offer, the allocation of Howard is based on an in-District ADA of 102.60, not 142.5. In addition, the projected ADA of Howard is 173.62, resulting in a total site ADA of 276.2. As such, Francophone is only responsible for 37.1% of the shared use costs of the Howard campus, not 45.08%. The costs for Francophone's use of the Howard campus will therefore need to be updated and revised.

For all the reasons enumerated in the Response, Francophone does not believe the District may separately charge it for custodial services or utilities for the Howard site, and even if for purposes of argument it does agree to separate charges, it does not believe that it is appropriate for these costs to be based on a proportion of ADA at the site as opposed to the actual amount of space occupied by Francophone on the site. Instead, if Francophone agrees to use the District's custodial services at its discretion for Howard, the District's total custodial costs should be included in the pro rata share calculation (not charged separately on an FTE basis) and any fair sharing of costs should be based on the percentage of square footage assigned to each school on the site. Indeed, while Francophone may have 37.1% of the projected total campus ADA at Howard next year, it has not been allocated 37.1% of the space. For classroom space alone, per the Final offer, Francophone will only have six (6) classrooms out of 22 classrooms, which is 27% of the classrooms. Francophone will plan to provide its own custodial services on the Toler Heights campus.

In addition, while the Final Offer allocates 37.1% of the shared space on the Howard campus, the parties still need to negotiate a shared use schedule for the site. During these discussions, Francophone may end up using less than its allocated amount of shared space. If this occurs, the pro rata share calculation will need to be revised to reflect Francophone's actual usage on the site.

Prop. 39 requires the pro rata share to be based on "actual facilities costs in the year preceding the fiscal year in which facilities are provided" (5 CCR Section 11969.7(d)); as the current pro rata share is based on 18-19 "working budget," please confirm it will be updated once the 18-19 budget is final.

As the District is aware, recently members of the Howard, and OUSD, community have expressed concerns regarding Francophone's co-location on the site. Up until that

Sonali Murarka

Office of Charter Schools

*Re: Francophone Charter School of Oakland
Response to District's Final Offer
Proposition 39 2019-2020*

April 30, 2019

Page 3

time, the co-location has been positive, with both parties working well together to co-locate. While Francophone understands the challenges of Prop. 39 and co-locations, it is also committed to ensuring a positive and collaborative co-location on the Howard campus, and to working with the site principal to ensure that both programs are able to operate on the site with as little disruption as possible. Obviously, when a district co-locates a charter school with a district school, significant due diligence should be undertaken to establish positive relations between the two schools, to plan for sharing space, and to ensure that both communities have the opportunity to work towards building a strong working relationship. Francophone therefore asks for some transparency on the process used thus far by the District in informing the Howard community or principal about the Proposition 39 effort, and urges the District to intentionally involve itself now in this situation, to make sure that Howard and Francophone are able to maintain open lines of communication, and that everyone understands that the District will be actively involved in ensuring that the co-location is a success. The District's explicit engagement in this process will be critical to protect the integrity of this co-location, as well as the safety of all students and staff.

Francophone is grateful to the Howard community and to Principal Williams for successfully hosting a portion of its students this year. It understands that welcoming more students on the Howard campus in 2019-2020 will bring up new questions and require new logistical and scheduling arrangements on both sides. It is committed to increasing communications and engagement accordingly, as well as identifying ways in which Francophone and Howard can partner, for the well-being of their staff and students.

Lastly, while the majority of the Facilities Use Agreement is acceptable to Francophone, there are a few small items that need to be addressed:

1. **Section 1.7:** This section is a new addition to the FUA and has never existed in a District FUA before, and Francophone does not agree to this language (nor does it agree to the language placing a grade range restriction on Francophone outside the grade ranges served by the school). Once the space has been allocated, Francophone can use it for whichever students, and in whatever grade configuration it deems necessary for its program. Prop. 39 does not allow the District to take space away from the Charter School once that space has been offered by the District and accepted. This section is also not consistent with the definition of overallocation in the Prop. 39 regulations, which is based on the school's total in-District ADA at P-2, not the in-District ADA accommodated on the site.

Sonali Murarka

Office of Charter Schools

*Re: Francophone Charter School of Oakland
Response to District's Final Offer
Proposition 39 2019-2020*

April 30, 2019

Page 4

2. **Section 3:** The FUA proposes monthly payments, yet the Final Offer proposes quarterly payments. Please clarify which is correct.
3. **Section 8:** The District carves out a limitation on Francophone using the Site related to joint use agreements that were “entered into between the District and a third party prior to January 1 of the school year to the Term.” The District has provided no other information as to whether such a Joint Use Agreement exists at the Site. Without knowing this information, and how this will effect Francophone’s access to the Site, Francophone cannot agree to this provision.
4. **Section 10:** Given how this section has been changed, the District needs to provide some assurance or warranty in the FUA that the Site can be used as a public school facility.
5. **Section 18:** This section should also apply to the District.
6. **Section 22:** This section currently states that Francophone can only install “an onsite sign” on the campus. As in the past and currently, Francophone has been able to install more than one sign on the campus, given the size of the campus, and as later in the section there is a reference to “signs” (plural), Francophone assumes that it was not the District’s intent to limit its signage ability to a single sign on campus.

Francophone looks forward to the opportunity to finalize these matters with the District moving forward.



Mathilde Andrejko

Francophone Charter School of Oakland

Cc: Sarah Kollman, Young, Minney & Corr, LLP
Francophone Charter School of Oakland Board Members
Farid Senna, Executive Director, Francophone Charter School of Oakland