



March 1, 2021

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

***Re: East Bay Innovation Academy
Response to District's Preliminary Proposal
Proposition 39 2021-2022***

Dear Ms. Murarka and Ms. Krag-Arnold:

East Bay Innovation Academy ("EBIA" or "Charter School") is in receipt of the Oakland Unified School District's ("District") February 1, 2021 letter ("Preliminary Proposal") regarding EBIA's request for facilities under Proposition 39 ("Prop. 39") for the 2021-2022 school year.

The District's Preliminary Proposal is a proposal for a total of eight (8) teaching stations as well as shared use of the art, science lab and tech space on the Skyline High School campus, as well as the assembly space, dining space, athletic, library space, operational space, interior room space, and exterior space. Other than the campus maps attached to the Preliminary Proposal, there is no explanation of the specific "operational," "interior space" or "exterior space" allocated to EBIA at each site. The Preliminary Proposal is based on a projected in-District ADA of 212.89. The parties previously executed a letter that allowed the District to exclude a comparison group analysis from its Preliminary Proposal if the District offered EBIA eight classrooms at Skyline.

Section 11969.9(g) of the Proposition 39 Implementing Regulations (the "Implementing Regulations") requires EBIA to respond to the District's Preliminary Proposal, to express any concerns, address differences between the preliminary proposal and

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EBIA's facilities request as submitted pursuant to subdivision (b), and/or make counter proposals.

The Preliminary Proposal lists the square footage of specialized classroom and non-teaching station space at Skyline High School, and then states that EBIA is entitled to a specific amount of that space:

	Skyline Square Footage	EBIA Allocated Square Footage	Percentage of Space	Corrected Allocation of Space (11.87%)
Art SCS	12,659	829	6%	1,502.62
Science Lab SCS	9,009	2,508	27%	1,069
Tech SCS	6,050	327	5%	718.14
Exterior	1,356,532	103,582	7%	161,020

The Preliminary Offer refers to the District's "calculation of the Charter School's entitlement" to both SCS and NTSS. However, the Preliminary Proposal does not actually explain how it arrived at what it believes to be EBIA's SCS entitlement. While all but the exterior space NTSS calculation is based on the fact that EBIA's projected in-District ADA of 212.89 represents 11.87% of the total planned ADA on the site, with Skyline's projected ADA of 1,579.91, the District's calculation of the SCS entitlement is not based on this percentage, nor is the exterior percentage calculation.

As the District and EBIA agreed that no comparison school analysis would be performed, EBIA is not certain from where the District's SCS information was derived, but it does agree to accept an allocation of each category of space based on its 11.87%percentage of the total ADA on the site. However, EBIA does wish to use the full allocation of science lab space in order to be able to fully implement its science program. Thus, the Final Offer will need to be revised to reflect the correct SCS and Exterior square footage based on this percentage, with science SCS remaining at its current level.

Furthermore, in its allocation of interior rooms, the District has allocated a square footage of interior rooms but has not actually identified the interior rooms to be provided to EBIA; instead the Preliminary Proposal states that the final offer will identify the exclusive use NCS that may be used by EBIA for administrative/office purposes. As interior rooms also include special education space, conference rooms, and other small classrooms, EBIA

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assumes that the District does not intend to have EBIA share special education spaces, as well as the other spaces, with the Skyline program, but rather would allocate exclusive use rooms to EBIA to meet this requirement as well. As such, EBIA believes the Preliminary Proposal should have identified the specific interior rooms that the District intends EBIA to use, and requests that the District provide this information to EBIA as soon as possible, as well as include it in the District's Final Offer.

Pro Rata Charge Worksheet

1. Improper Costs Included in Pro Rata Share Calculation

a. **Custodial Services:** While EBIA understands that the Settlement Agreement provided that the District would provide custodial services for co-located charter schools, it still will take this opportunity to object to the District's requirement as inconsistent with law.

b. **Emergency Debt Service Costs:** The District has included its emergency debt service costs in the pro rata share calculation. 5 CCR Section 11969.7 states that only unrestricted General Fund facilities costs that are not costs otherwise assumed by EBIA are included in the methodology. Under the Implementing Regulations, items that are not specifically included in the pro rata share calculations because they are either obligations of EBIA or facilities-related general fund expenses may not be included in the calculation of facilities costs. "Debt servicing" is typically not a cost charged to the unrestricted general fund (e.g., bond repayment obligations are excluded). Further, even if repayment of the District's emergency loan constitutes debt service that is charged to the unrestricted general fund, the pro rata share is intended to reimburse the District for a charter school's proportion of the District's facilities costs in exchange for EBIA's use of District facilities. The Emergency Apportionment state loans are clearly not facility-related debt service costs, and thus may not be included in the calculation. Again, only those facilities costs charged to the unrestricted general fund can be included in the pro rata share calculation. (5 CCR Section 11969.7.) If it is the District's position that the repayments of the emergency state loan are debt service for "facilities costs" then we request that the District provide some documentation demonstrating that the emergency loan monies were spent on "facilities costs."

Draft Facilities Use Agreement

Please see attached proposed revisions to the template facilities use agreement. We have attempted in this letter to enumerate all of our concerns with the District's Preliminary

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Proposal; however, we note that our failure to mention a concern in this letter should not be interpreted as acceptance of that term. EBIA looks forward to the opportunity to discuss and negotiate these matters with the District moving forward.

Sincerely,

Michelle S. Cho

Michelle Cho

Cc: Sarah Kollman, Young, Minney & Corr, LLP
EBIA Board Members