



OFFICE OF CHARTER SCHOOLS

March 29, 2019

Maya Woods-Cadiz and Marisol Magana
American Indian Public Charter School II
171 12th Street
Oakland, CA 94607

Re: Oakland Unified School District
Final Offer of Facilities, 2019-20

Dear Maya Woods-Cadiz and Marisol Magana:

Oakland Unified School District ("District") makes this Final Offer of Facilities to **American Indian Public Charter School II** ("Charter School") for the 2019-20 school year.

The District has considered the Charter School's request for facilities under the criteria set forth in Proposition 39 and its implementing regulations. (Cal. Ed. Code § 47614; Cal. Admin. Code, title 5, §§ 11969.1, *et seq.*) This Final Offer complies with all of the requirements of Proposition 39 and Cal. Admin. Code, title 5, §11969.9(h).

A. Procedural History

The Charter School submitted a Request for Facilities under Proposition 39 pursuant to Cal. Admin. Code, title 5, § 11969.9(c) on or before November 1, 2018. The Charter School's Request for Facilities was based upon a projected in-District Average Daily Attendance ("ADA") of 652.81. The District issued written objections to projections under Cal. Admin. Code, title 5, § 11969.9(d) on November 30, 2018. In its Response to District Objections To ADA Projections letter, dated January 2, 2019, the Charter School accepted the District's counterprojection of **551.95**. The District's November 30, 2018 letter, and the reasons stated therein, are incorporated into this Preliminary Offer of Facilities.

B. 2019-20 Final Offer to the Charter School

Education Code § 47614 and its implementing regulations obligate the District to offer space sufficient to accommodate the Charter School's in-District students. The District's allocation of space is therefore based on the projected in-District ADA of **551.95** (K-5: 338.72, 6-8: 213.23).

The District's Final Offer to the Charter School includes space at the following school site(s):

Webster (East Oakland Pride) campus
8000 Birch St, Oakland, CA 94621

Hoover Elementary School campus
890 Brockhurst St, Oakland, CA 94608

Brookfield Elementary School campus
401 Jones Ave, Oakland, CA 94603

The Charter School’s allocation of space is summarized in the tables below. The location of the exclusive use space offered to the Charter School in this Final Offer is depicted in the diagrams attached as **Exhibit A**. This Final Offer is based on the District’s final ADA projections. Additionally, the methodology for determining space allocations has incorporated some of the feedback provided in charter schools’ responses to Preliminary Offer letters. As such, the space to which the Charter School is entitled, including the number of allocated classrooms, may have changed slightly from that which was indicated in the Preliminary Offer.

Table 1: Exclusive Use Classroom Allocation Summary

School Site	Total Classrooms*	Specialized Classrooms	Total Classroom Space (sqft)
Webster	11	1	8,918
Hoover	6	3	4,209
Brookfield	10	0	8,297
Total	27	4	21,424

* Total Classrooms includes Specialized Classrooms.

Table 2: Exclusive Use Classroom Allocation

Count	School Site	Room # (per MKThink site plan, Exhibit B)	Sqft
1	Webster	30-1-1	897
2	Webster	37-1-1	897
3	Webster	40-1-1	897
4	Webster	A-1-3	757
5	Webster	A-1-7	876
6	Webster	A-1-17	753
7	Webster	A-2-1*	682
8	Webster	A-2-5	836
9	Webster	A-2-6	830
10	Webster	A-2-14	755

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11	Webster	A-2-29	738
1 (12)	Hoover	D-1-56	642
2 (13)	Hoover	D-2-80	657
3 (14)	Hoover	D-2-83*	656
4 (15)	Hoover	D-2-91*	636
5 (16)	Hoover	D-2-93	646
6 (17)	Hoover	P1-1-1*	972
1 (18)	Brookfield	P1-1-1	900
2 (19)	Brookfield	P2-1-1	900
3 (20)	Brookfield	P3-1-1	713
4 (21)	Brookfield	P5-1-18	684
5 (22)	Brookfield	P6-1-15	684
6 (23)	Brookfield	P7-1-1	900
7 (24)	Brookfield	P8-1-1	900
8 (25)	Brookfield	P9-1-1	900
9 (26)	Brookfield	P28-1-1	858
10 (27)	Brookfield	P29-1-1	858

* Specialized classroom

Table 3a: Exclusive Use Non-Classroom Space (NCS) Allocation

School Site	Room # (per site plan)	Sqft	Room Type(s)
Hoover	A-1: 7-8	170	Admin
Brookfield	P-3: 2-4; P-4: 5-11, 17; P-5: 12-13; P-6: 14, 16	1,109	Admin, Storage, Restrooms, etc.
Total	-	1,279	-

Table 3b: Non-Classroom Space (NCS) Allocation Summary

Site Name	Projected ADA at Site		Charter School Projected ADA as % of Total Site ADA	Total Site NCS	Charter School NCS Allocation*			
	AIPCS II	Co- Locating District School			Total	Exclusive- Use Interior	Shared	
							Interior	Exterior

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Webster	224.86	290.88	43.6%	377,719	164,686	0	12,648	152,038
Hoover	122.64	258.86	32.1%	157,936	50,697	170	5,433	45,094
Brookfield	204.45	205.02	49.9%	414,691	206,931	1,109	15,523	190,299
Total	551.95	-	-	-	422,314	1,279	33,604	387,431

* Although specific sharing arrangements and schedules will be negotiated by the site leadership of the co-locating schools, shared spaces will include, among other spaces, reasonably equivalent access to the multipurpose room/cafeteria and restrooms.

C. Comparison Group Methodology

As mandated by Proposition 39, the Charter School’s facilities space entitlement is based on space provided to students at a set of District-operated comparison schools. Cal. Admin. Code, title 5, § 11969.3 governs the identification of the comparison group sites. Subsection (a)(1) states as follows:

Comparison Group:

The standard for determining whether facilities are sufficient to accommodate charter school students in conditions reasonably equivalent to those in which the students would be accommodated if they were attending public schools of the school district providing facilities shall be a comparison group of district-operated schools with similar grade levels. If none of the district-operated schools has grade levels similar to the charter school, then a contiguous facility within the meaning of subdivision (d) of section 11969.2 shall be an existing facility that is most consistent with the needs of students in the grade levels served at the charter school. The district is not obligated to pay for the modification of an existing school site to accommodate the charter school's grade level configuration.

Cal. Admin. Code, title 5, § 11969.3(a)(2) governs the determination of the comparison group schools for districts whose students live in high school attendance areas:

The comparison group shall be the school district-operated schools with similar grade levels that serve students living in the high school attendance area, as defined in Education Code section 17070.15(b), in which the largest number of students of the charter school reside. The number of charter school students residing in a high school attendance area shall be determined using in-district classroom ADA projected for the fiscal year for which facilities are requested.

The District must first identify the high school attendance area in which the largest number of in-District Charter School students reside. Education Code §17070.15(b) defines “attendance area” as “the geographical area serving an existing high school and those junior high schools and elementary

schools included therein.” Based on the information provided in the Charter School’s facilities request, the District has determined that the greatest number of Charter School students live within the **Oakland Technical High School**.

Table 4: High School Attendance Area by Grade Span

Grade Span	High School Attendance Area	# of Students
TK-5	Oakland Tech	131
	Oakland High	95
	Fremont	60
	McClymonds	55
	Castlemont/CCPA/Madison	40
	Skyline	28
6-8	Oakland Tech	65
	Oakland High	63
	Fremont	49
	McClymonds	32
	Castlemont/CCPA/Madison	28
	Skyline	24

Therefore, the comparison group schools for the Charter School are as follows:

- **K-5:** Sankofa Academy, Emerson Elementary, Lincoln Elementary, Piedmont Avenue Elementary, Chabot Elementary, Hillcrest School, Peralta Elementary, Kaiser Elementary
- **6-8:** Hillcrest School, Claremont Middle School, Westlake Middle School

D. Reasonable Equivalence Provision

In order to meet Proposition 39 standards that proposed facilities are “reasonably equivalent,” the District compares the proposed facilities to District-operated schools constituting the comparison school group. The District has considered capacity, condition, location, and other relevant factors, using as a point of reference the comparison group schools identified above, to allocate a facility to the Charter School that meets Proposition 39 standards for “reasonable equivalence.”

With respect to “condition” and “capacity”, the District may allocate facilities to the Charter School that are comparable to the comparison group in the following ways:

Table 5: Facility Characteristics to Determine Reasonable Equivalence

Facility Characteristic	Reasonable Equivalence Category	Regulatory Authority
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Facility Characteristic	Reasonable Equivalence Category	Regulatory Authority
School site size	Condition	C.C.R., tit. 5, § 11969.3(c)(1)(A)
Condition of interior and exterior surfaces	Condition	C.C.R., tit. 5, § 11969.3(c)(1)(B)
Mechanical, plumbing, electrical, and fire alarm systems in condition and conformity to applicable law	Condition	C.C.R., tit. 5, § 11969.3(c)(1)(C)
Availability and condition of technology resources	Condition	C.C.R., tit. 5, § 11969.3(c)(1)(D)
Overall learning environment qualities (e.g., lighting, noise mitigation, and/or size for intended use)	Condition	C.C.R., tit. 5, § 11969.3(c)(1)(E)
Furnishings and equipment	Condition	C.C.R., tit. 5, § 11969.3(c)(1)(F)
Condition of athletic fields and/or play area space	Condition	C.C.R., tit. 5, § 11969.3(c)(1)(G)
Ratio of teaching stations (classrooms) to average daily attendance (ADA)	Capacity	C.C.R., tit. 5, § 11969.3(b)(1)
Specialized classroom space if such facilities are available to the district comparison group (e.g., science laboratories)	Capacity	C.C.R., tit. 5, § 11969.3(b)(2)
Non-teaching space, which the district can share with the charter school (e.g., administrative, kitchen, multi-purpose, and/or play area space)	Capacity	C.C.R., tit. 5, § 11969.3(b)(3)

D1. Condition

The District has evaluated the offered site against the comparison school group based on site size (acreage) as well as data on the condition of the facilities based on information available from the Facilities Condition Index and Educational Adequacy Score, as part of the Jacobs Study provided in [Exhibit C](#).

Per the Jacobs study, the Facility Condition Index (FCI) is an industry-accepted indicator that measures a relative scale of the overall condition of a given facility or group of facilities within a portfolio. The FCI evaluates each building's overall condition, including its site, roof, structural integrity, the exterior building envelope, the interior, and the mechanical, electrical, and plumbing systems. The index is derived by dividing the total repair cost, including educational adequacy and site-related repairs, by the total replacement cost of the facility, essentially conveying the 'percent broken'.

The Educational Adequacy Score (EAS) is intended to measure the degree to which OUSD facilities support the instructional mission and modern instruction methods. The EAS is based on District specifications and Jacobs best practices and standards from previous experience, which are both informed by national standards developed by or observed by the Jacobs team. There are eight educational adequacy categories: instructional support, technology, security and supervision, capacity, support for programs, physical characteristics, learning environment, and relationship of spaces. The study gave special consideration and review to the District’s instructional technology infrastructure.

The District’s analysis, found in the table below, shows that the sites offered to the Charter School are within (or better than) the range of the comparison school group on site size, the conditions index, and the educational adequacy score. Therefore, based on the data available to the District, the District has concluded that the facilities offered to the Charter School meet the reasonable equivalence standards under the category of “condition.”

Table 6: School Site Condition Analysis, Comparison Sites vs Offer Site

Comparison School	School Site Size (acreage)	Facilities Condition Index*	Educational Adequacy Score**
Sankofa Academy	7.81	78%	53.1
Emerson Elementary	5.12	24%	55.0
Lincoln Elementary	1.38	57%	43.3
Piedmont Avenue Elementary	2.44	39%	52.2
Chabot Elementary	4.20	16%	59.7
Hillcrest School	2.14	71%	43.8
Peralta Elementary	1.76	10%	42.5
Kaiser Elementary	6.61	43%	42.9
Claremont Middle School	3.79	22%	54.0
Westlake Middle School	5.73	39%	56.0
Range for Comparison Schools	1.38–7.81	10%–78%	42.5–59.7
Offer Site: Webster	8.56	44%	56.2
Offer Site: Hoover	3.57	56%	47.4
Offer Site: Brookfield	9.52	24%	51.1

* A higher FCI is indicative of a lower quality condition.

** A higher EAS score is indicative of a higher level of educational adequacy.

The District conducted its analysis of the condition of the comparison group schools under the criteria set forth in the Proposition 39 regulations, supported by relevant data from the Jacobs Study.

D2. Capacity – Classrooms

With respect to classrooms, Cal. Admin. Code title 5, § 11969.3(b)(1) states that “[f]acilities made available by a school district to a charter school shall be provided in the same ratio of teaching stations (classrooms) to ADA as those provided to students in the school district attending comparison group schools.” Cal. Admin. Code title 5, § 11969.3(b)(1) also says that “[t]he number of teaching stations (classrooms) shall be determined using the classroom inventory prepared pursuant to California Code of Regulations, title 2, section 1859.31, adjusted to exclude classrooms identified as interim housing.”

The District complied with Cal. Admin. Code tit. 5, § 11969.3(b)(1) by consulting the “classroom inventory pursuant to Sections 1859.31 and 1859.32 ... on the Form SAB 50-02.” (See, Cal. Admin. Code tit. 2, s 1859.30.) A copy of Form SAB 50-02 is linked as [Exhibit D](#). The District notes that Form SAB 50-02 only lists the aggregate number of classrooms by grade range within each high school attendance area, without breaking down and identifying the number of classrooms by District school. Therefore, Form SAB 50-02 does not, by itself, disclose the number of classrooms “provided to” District students at individual District schools. To determine the number of classrooms “provided to” District students at District schools, the District has taken the additional step of creating an updated inventory of actual classroom utilization at each comparison group school using educational adequacy assessment data that was provided by a contracted third party vendor (Jacobs) to OUSD during the 2017-18 school year. That inventory is provided as [Exhibit C](#).

The District’s approach follows the methodology set forth by the Court in *California Charter Schools Assn. v. Los Angeles Unified School District* (2015) 60 Cal.4th 1221 in determining the classroom allocation to the Charter School. As explained by the California Supreme Court in that case:

According to the District, only classrooms in the inventory that are “provided to” noncharter public school K–12 students in the District must be counted. On this view, unbuilt classrooms, classrooms already used by charter schools, and classrooms dedicated to preschool, adult education, or other uses besides K–12 education are not “provided to” such K–12 students and thus need not be counted in determining the ADA/classroom ratio under section 11969.3(b)(1). [¶] We agree with this reading of section 11969.3(b)(1). (*Id.* at 1239.)

The District has met the requirements for determining the ADA-to-classroom ratio under Cal. Admin. Code tit. 5, § 11969.3(b)(1). The District went beyond the classroom inventory contained in Form SAB 50-02, and created an inventory of classroom utilization at each of the comparison group schools, to determine the number of classrooms “provided to” District students at the comparison group

schools. To do so, the District determined the total number of classrooms at each site using the Jacobs Study data ([Exhibit C](#)), removing classrooms occupied by preschool students that had been included in the data. The District then separated the number of rooms at each site that the District’s Special Education department indicated would be used as dedicated Special Day Class (SDC) rooms to serve high needs students with disabilities in self-contained settings (SDC students), as these students require a lower ADA-to-classroom ratio¹ than the general student population. The District used the projected number of SDC students from each District school’s ADA to determine an SDC ADA-to-classroom ratio. The remaining classrooms and ADA (excluding SDC students, but including students with disabilities who do not require an SDC setting) were then used to determine the ADA-to-classroom ratio for all non-SDC students. Currently, because the Charter School does not serve students who require an SDC setting, the non-SDC ADA-to-classroom ratio is used to determine classroom entitlement for the Charter School. However, if the Charter School served SDC students, space would be allocated for these students based on comparison schools’ SDC ADA-to-classroom ratio. Note that newcomer students and classrooms are included in the non-SDC ADA-to-classroom ratio in this Final Offer, although they had been excluded from the Preliminary Offer calculations for classroom entitlement. Based on this methodology, the District determined the (non-SDC) ADA-to-classroom ratio at the comparison group as **15.6 ADA per classroom for grades K-5** and **10.7 ADA per classroom for grades 6-8**.

Table 7a: Classroom Entitlement Calculation for Grades TK-5

School	Projected Schoolwide ADA (excluding SDC students)	Classrooms Provided to Students (excluding SDC classrooms)	ADA per Classroom (excluding SDC)	Projected TK-5 ADA (excluding SDC students)	Proportion of Total TK-5 Comparison Group ADA (excluding SDC students) ²
Sankofa Academy	141.92	12	11.83	141.92	5%
Emerson Elementary	259.77	17	15.28	259.77	9%
Lincoln Elementary	716.93	30	23.90	716.93	25%
Piedmont Avenue Elementary	299.57	18	16.64	299.57	11%
Chabot Elementary	550.11	25	22.00	550.11	20%
Hillcrest School	383.37	13	29.49	278.99	10%
Peralta Elementary	319.58	14	22.83	319.58	11%

¹ According to both the most recent contract and current tentative agreement between the Oakland Education Association and the District, Special Day Classes are to be staffed at a ratio of no more than 13 students per caseload for Mild to Moderate or 10 students per caseload for Moderate to Severe.

² Calculated as follows: School Projected TK-5 ADA divided by Total TK-5 Comparison Group Projected ADA

Kaiser Elementary	252.86	11	22.99	252.86	9%
Weighted Average ADA per Classroom³				21.71	
Charter Projected In-District ADA				338.72	
Charter Classroom Entitlement (338.72/21.71=15.6)				15.6	

Table 7b: Classroom Entitlement Calculation for Grades 6-8

School Name	Projected Schoolwide ADA (excluding SDC students)	Classrooms Provided to Students (excluding SDC classrooms)	ADA per Classroom (excluding SDC)	Projected 6-8 ADA (excluding SDC students)	Proportion of Total 6-8 Comparison Group ADA (excluding SDC students) ⁴
Hillcrest School	383.37	13	29.49	104.38	13%
Claremont Middle School	443.31	19	23.33	443.31	57%
Westlake Middle School	236.62	26	9.10	236.62	30%
Weighted Average ADA per Classroom⁵				19.86	
Charter Projected In-District ADA				213.23	
Charter Classroom Entitlement (213.23/19.86=10.7)				10.7	

Table 7c: Total Classroom Entitlement Summary by Grade Span

Grade Span	Classroom Entitlement
TK-5	15.6
6-8	10.7
Total	26.3

Applying that ratio to the Charter School's projected ADA of **551.95** (K-5: 338.72, 6-8: 213.23), the District determined that the Charter School was entitled to an allocation of **27** (rounded up from 15.6+10.7=26.3) classrooms.

³ Calculated by taking the sum of products that resulted from multiplying each school's TK-5 ADA per Classroom by its Proportion of Total TK-5 Comparison Group ADA (excluding SDC students).

⁴ Calculated as follows: School Projected 6-8 ADA divided by Total 6-8 Comparison Group Projected ADA

⁵ Calculated by taking the sum of products that resulted from multiplying each school's 6-8 ADA per Classroom by its Proportion of Total 6-8 Comparison Group ADA (excluding SDC students).

As cited above, Cal. Admin. Code title 5, § 11969.3(b)(1) states that “[f]acilities made available by a school district to a charter school shall be provided in the same ratio of teaching stations (classrooms) to ADA as those provided to *students* [emphasis added] in the school district attending comparison group schools.” To more accurately reflect the ADA-to-classroom ratio of the **average student** attending the comparison schools, the District calculated a weighted average ADA per classroom, which factors in the relative proportion that each comparison school’s ADA contributes to the total comparison group ADA. In its response, the Charter School disputed this methodology and asserted that the comparison schools’ ADA-to-classroom ratio must be averaged without regard to the size of each school’s student population. However, doing so would provide a less accurate reflection of what is provided to the average comparison school **student**, and, instead, would focus on the average comparison **school**, which, by default, weighs the experience of the students at smaller schools more than that of students at larger schools. Although subtle, this distinction is significant. Furthermore, the Charter School indicated that schools with a higher ADA would always have a lower ADA-to-classroom ratio. This is not true, as a school’s overall ADA is typically reflective of the number of classrooms and size of the school’s facility, not other factors that may cause a school to have a higher or lower ADA-to-classroom ratio. Therefore, we disagree with the Charter School’s contention that “[t]here is no support for using a weighted average in this situation, as weighted averages are typically used when it is necessary to give certain values in a data set more weight.” (March 1, 2019 letter, p. 6.) As is pointed out above, the District performs weighing to avoid the distortive effect of differences in enrollment at the comparison group schools.

D3. Capacity – Specialized Classroom Space

Cal. Admin. Code title 5, § 11969.3(b)(2) states as follows with respect to the allocation of specialized classroom space to Charter Schools:

If the school district includes specialized classroom space, such as science laboratories, in its classroom inventory, the space allocation provided pursuant to paragraph (1) of subdivision (b) shall include a share of the specialized classroom space and/or a provision for access to reasonably equivalent specialized classroom space. The amount of specialized classroom space allocated and/or the access to specialized classroom space provided shall be determined based on three factors:

- (A) the grade levels of the charter school's in-District students;
- (B) the charter school’s total in-District classroom ADA; and
- (C) the per-student amount of specialized classroom space in the comparison group schools.

As mentioned above, OUSD contracted with Jacobs to conduct an educational adequacy assessment at its facilities during the 2017-18 school year. As part of this assessment, Jacobs collected specialized classroom space data, which included the approximate square footage of each space. This data was used to help determine the charter school’s specialized classroom space allocation based on “the per-student amount of specialized classroom space in the comparison group schools” as shown in the table below. Detailed data related to the specific specialized classroom space present at District sites is provided in [Exhibit E](#).

As was done for assessing comparison schools’ ADA-to-classroom ratio, the District calculated a weighted average specialized classroom square footage-to-ADA ratio⁶, which factors in the relative proportion of each comparison school’s ADA of the total comparison group ADA, to more accurately reflect the specialized classroom square footage-to-ADA ratio of the average **student** attending the comparison schools. In its response, the Charter School disputed this weighting and asserted that the comparison schools’ specialized classroom square footage-to-ADA ratio must be averaged without regard to the size of each school’s respective student population. As explained above, doing so would, by default, disregard the average student experience, providing a less accurate reflection of what is provided to the average comparison school **student**, and instead, would focus on the average comparison **school**. However, as is pointed out above, the District performs weighing to avoid the distortive effect of differences in enrollment at the comparison group schools

Table 8: Specialized Classroom Space (SCS) Entitlement⁷

Grade Span	Arts	Science	Tech	Total
TK-5 SCS Entitlement	373	173	301	847
6-8 SCS Entitlement	1,736	783	1,194	3,712
Total SCS Entitlement	2,108	955	1,496	4,559
SCS Allocation Included in Classrooms Offered	748	2,337	0	3,085
Under(-)/Over(+) Allocation of SCS Entitlement (sqft)*	-1,360	+1,382	-1,496	-1,474

* Calculated by subtracting *Total SCS Entitlement* from *SCS Allocation Included in Classrooms Offered*

⁶ The comparison school ADA-to-classroom ratios used to calculate the specialized classroom entitlement is based on each school’s entire ADA, including SDC students, and all specialized classroom square footage as indicated by the Jacobs Study data.

⁷ Square footage figures included in this table are approximate and were taken from the Jacobs data found in [Exhibit C](#). All other square footage figures found in this document were taken from MKThink data ([Exhibit B](#)) and are more precise. Therefore, discrepancies in square footage figures may exist between this and other tables found in this letter. Additionally, 3 classrooms at Hoover counted as specialized classrooms in this letter were not identified as specialized classrooms in the Jacobs Study data. However, District staff determined these rooms should indeed be considered specialized elementary science classrooms during a walkthrough of the site.

As shown above, the Charter School's K-5 ADA is entitled to approximately 847 sqft of specialized classroom space, while its 6-8 ADA is entitled to approximately 3,712 sqft of specialized classrooms space. The District's calculation of the Charter School's entitlement to specialized classroom space shows that overall, the Charter School is entitled to an additional 1,474 sqft of specialized classroom space. As mentioned above, specific sharing arrangements will be negotiated by the site leadership of the co-locating schools; if desired by the Charter School, this may include shared access to specialized classroom space for its middle school ADA.

In its Preliminary Offer response letter, the Charter School takes issue with the fact that the District counted specialized classrooms as a subset of the classroom allocation. As referenced above, Cal. Admin. Code title 5, § 11969.3(b)(2) states that "If the school district includes specialized classroom space, such as science laboratories, in its classroom inventory, the space allocation provided pursuant to paragraph (1) of subdivision (b) shall *include* [emphasis added] a share of the specialized classroom space and/or a provision for access to reasonably equivalent specialized classroom space." Paragraph (1) of subdivision (b) outlines the methodology for allocating teaching stations (classrooms). Therefore, as this states that the initial classroom allocation "shall include" specialized space, the District has determined that the specialized classroom space is a subset of the classroom allocation and that additional specialized space would only need to be allocated separately if the specialized classroom space entitlement is not already met within the classrooms allocated as part of the initial classroom allocation. If the specialized classroom allocation should, in fact, not be considered a subset of the classroom allocation, then all specialized classrooms should be removed prior to calculating the ADA-to-classroom ratio, an argument the Charter School has not made. Otherwise, this would result in "double dipping" as the specialized space would be double counted, once in the classroom allocation and again in the specialized classroom space allocation.

D4. Capacity – Non-Classroom Space

With respect to non-classroom space, Cal. Admin. Code title 5, § 11969.3(b)(3) states as follows:

The school district shall allocate and/or provide access to non-teaching station space commensurate with the in-district classroom ADA of the charter school and the per-student amount of non-teaching station space in the comparison group schools. Non-teaching station space is all of the space that is not identified as teaching station space or specialized classroom space and includes, but is not limited to, administrative space, kitchen, multi-purpose room, and play area space. If necessary to implement this paragraph, the district shall negotiate in good faith with the charter school to establish time allocations and schedules so that educational programs of the charter school and school district are least disrupted.

In the table below, the District calculated the total amount of non-classroom space to which the Charter school is entitled based on the non-classroom square footage per ADA at each of the comparison group schools. A supplement showing the calculation of non-classroom space at District sites is linked as [Exhibit B](#).

Table 9: Non-Classroom Space (NCS) Sqft/ADA Entitlement

Comparison School	Total Projected ADA (including SDC students)	Proportion of Total Projected Site ADA	Site Interior NCS (sqft)*	Site Exterior NCS (sqft)*	Total Site NCS (sqft)*	NCS (sqft)/ ADA
Sankofa Academy	160.23	100.00%	29,600	323,494	353,094	2,204
Emerson Elementary	277.59	100.00%	16,340	206,687	223,027	803
Lincoln Elementary	716.93	100.00%	19,419	45,222	64,641	90
Piedmont Avenue Elementary	315.53	100.00%	20,727	88,318	109,045	346
Chabot Elementary	559.76	100.00%	18,353	165,903	184,256	329
Hillcrest School	383.37	100.00%	11,511	81,707	93,218	243
Peralta Elementary	319.58	100.00%	9,965	66,701	76,666	240
Kaiser Elementary	252.86	100.00%	13,130	274,802	287,932	1,139
Claremont Middle School	473.88	100.00%	23,853	141,239	165,092	348
Westlake Middle School	272.53	100.00%	45,746	213,779	259,525	952

* For schools sharing sites with other schools, the square footage for the NCS columns was calculated by multiplying the total site NCS by the school's proportion of total projected site ADA.

The following table summarizes the Charter School's non-classroom space sqft/ADA allocation at each site offered, compared to the non-classroom space sqft/ADA ratios to which the Charter School is entitled:

Table 10: Non-Classroom Space (NCS) Sqft/ADA Allocation vs. Entitlement

Offer Site	Charter Proportion of Projected Site ADA	Interior NCS Allocation (sqft)	Exterior NCS Allocation (sqft)	NCS Allocation (sqft)	Charter Projected In-District ADA	NCS Sqft/ADA
Webster	43.6%	12,648	152,038	164,686	224.86	732
Hoover	32.1%	5,603	45,094	50,697	122.64	413

Brookfield	49.9%	16,632	190,299	206,931	204.45	1,012
Total Allocated				422,314	551.95	765
Entitlement Range Based on Comparison School Group						90–2,204

The District calculates the sqft/ADA for non-classroom space to determine the reasonable equivalence standards for this category of space at the comparison group schools. A charter school’s allocation is considered to fall within reasonable equivalence standards if it falls within the range of the sqft/ADA ratios at the comparison group schools. As shown in the table above, the Charter School’s allocation is within the comparison group range and therefore is reasonably equivalent.

The District also will offer the Charter School reasonably equivalent Furnishings and Equipment for 551.95 ADA.

E. Response to the Charter School’s March 1, 2019 Letter

In compliance with Cal. Admin. Code, title 5, §11969.9(h), the District addresses the Charter School’s response to the District’s preliminary offer of facilities.

Charter School’s ADA Projections: The District is allocating space in accordance with the District’s counterprojections for the reasons set forth in its November 30, 2018 letter. These counterprojections were accepted by the Charter School in its Response to District Objections To ADA Projections letter dated January 2, 2019.

Site Location: The Charter School stated that it wishes “to remain in proximity to our current location near or within the Downtown Oakland area” and specifically requested “facilities at one of the following campuses: Roosevelt Middle School, Lincoln, La Escuelita, , Bella Vista, West Oakland Middle, Hoover Elementary, Piedmont Elementary, Westlake.”

Education Code 47614(b) states that “[t]he school district shall make reasonable efforts to provide the charter school with facilities near to where the charter school wishes to locate ...” The District made attempts to accommodate the location preference(s) identified by the Charter School in its request for facilities. The District’s findings with respect to the Charter School’s location preference are found in the January 23, 2019 resolution adopted by the OUSD Board and the subsequent March 20, 2019 amended resolution ([Exhibit I](#)). Here, the District exercised its discretion in determining that none of the schools in the Charter School’s preferred locations had capacity to accommodate the Charter School’s entire projected ADA. The District’s determination is subject to deference. (See, e.g., *Westchester Secondary Charter School v. Los Angeles Unified School District* (2015) 237 Cal.App.4th 1226; *Sequoia Union High Sch. Dist. v. Aurora Charter High School* (2003) 112 Cal.App.4th 185, 194-5.)

The District did not abuse its discretion by considering the cost to the District, or the impact upon District pupils, of granting the Charter School's location preference.

The District has provided the Charter School a Final Offer at the Hoover Elementary School campus, located at 890 Brockhurst St, Oakland, CA 94608, which the Charter School listed as their preferred location. The District also provided the Charter School a Final Offer at the Webster campus, located at 8000 Birch St, Oakland, CA 94621 and at the Brookfield Elementary School campus, located at 401 Jones Ave, Oakland, CA 94603, which are approximately 7.2 and 7.6 miles from the current Charter School site, respectively. While the Webster and Brookfield sites are further from the Charter School's current site, the District balanced the capacity available at these sites against their distance, and concluded that allocating facilities at Webster and Brookfield allowed the District to avoid an allocation at an additional, fourth site. Moreover, the Charter School has, for many years, occupied its privately owned facility, and has not accepted the District's offer of facilities, at least not in their entirety. Therefore, the Charter School has access to more facilities options than other charter schools making requests under Proposition 39.

Other Allegations:

The District responds to the Charter School's other allegations as follows.

1. The Charter School claims that the District excluded all special education classrooms from its inventory of non-classroom space. This allegation is false. As explained above, the District calculated the ADA to teaching station ratio for SDC classrooms existing at the comparison group schools, and offers SDC space in the event that the Charter School in fact offers SDC. It is not clear what is meant by the Charter School's other claim, that the District excluded "other non-classroom spaces housed in classrooms."
2. The Charter School claims that the District failed to count teaching stations provided to District students at the comparison group schools based upon its review of "websites for each comparison school to evaluate the estimated number of teaching stations, and actual usage of particular rooms on campus as something other than general education." However, the District based its inventory of classroom space at the comparison group schools on the Jacobs data. The Charter School provides no documentation or data from its supposed review of school websites to support its claim that the District excluded classrooms.
3. The Charter School contends that an allocation of non-classroom space is not reasonably equivalent if it falls within the range of SqFt/ADA at the comparison group schools. However, nothing in the regulations supports this claim. Cal. Admin. Code title 5, § 11969.3(b)(3) states that "[t]he school district shall allocate and/or provide access to non-teaching station space commensurate with

the in-district classroom ADA of the charter school and the per-student amount of non-teaching station space in the comparison group schools.” If the Charter School’s allocation falls within the range of the comparison group school SqFt/ADA ratios, then it is “commensurate” for reasonable equivalence purposes.

F. The District Followed the Legal Requirements for a Multi-Site Offer, and Has Properly Considered the Charter School’s Location Preference

Cal. Code Regs., tit. 5, section § 11969.2(d) requires that “[i]f the in-district average daily classroom attendance of the charter school cannot be accommodated on any single school district school site, contiguous facilities also includes facilities located at more than one site, provided that the school district shall minimize the number of sites assigned and shall consider student safety.” On January 23, 2019, the District’s Governing Board passed a Resolution “Finding that Charter Schools Could Not Be Accommodated at a Single Site and Written Statement of Reasons Explaining the Finding” (“Resolution”), that was amended on March 20, 2019. The Resolution and amendment contain findings supporting the conclusion that the Charter School cannot be accommodated on one site, minimizing the number of sites offered, and considering student safety ([Exhibit I](#)).

G. Final Facilities Offer – Other Terms and Conditions

G1. Pro-Rata Share

The calculation of the Charter School’s pro-rata share of facilities costs is attached as [Exhibit F](#), and the Charter School’s allocation, fees, and payment schedule is attached as **Exhibit G**. The pro-rata share calculation has been updated since the preliminary offer to remove restricted Prop 39 Clean Energy funds. The District notes that the Charter School’s share of custodial costs may be subject to reconciliation in the event that the District is required to increase staffing as a result of the Charter School’s use and occupation of the District’s site. The District’s calculation of the pro-rata share was affirmed by the Court in *California Charter Schools Association v. Oakland Unified School District*, Alameda Superior Court Case No. RG16806690.

G2. Overalllocation Fee

Cal. Admin. Code tit. 5, § 11969.8 provides for a penalty in the event that a school district overallocates facilities to a charter school based on the charter school’s overprojection of Average Daily Attendance (“ADA”) for a school year. Subsection (a) of that regulation provides as follows:

Space is considered to be over-allocated if (1) the charter school's actual in-district classroom ADA is less than the projected in-district classroom ADA upon which the facility allocation was

based and (2) the difference is greater than or equal to a threshold ADA amount of 25 ADA or 10 percent of projected in-district classroom ADA, whichever is greater.

The penalty for overallocation is calculated as follows:

The per-pupil rate for over-allocated space shall be equal to the statewide average cost avoided per pupil set pursuant to Education Code section 42263 for 2005-06, adjusted annually thereafter by the CDE by the annual percentage change in the general-purpose entitlement to charter schools calculated pursuant to Education Code section 47633, rounded to the next highest dollar, and posted on the CDE Web site. The reimbursement amount owed by the charter school for over-allocated space shall be equal to (1) this rate times the difference between the charter school's actual in-district classroom ADA and the projected in-district classroom ADA upon which the facility allocation was based, less (2) this rate times one-half the threshold ADA.

Please be advised that, in the event that the District overallocates facilities based upon the charter School's overprojection of ADA, the District will exercise its rights under the Proposition 39 regulations to collect the overallocation fee from the Charter School.

G3. Response to Final Offer

Under tit. 5, § 11969.9(i) of the Cal. Code of Regs., "The charter school must notify the school district in writing whether or not it intends to occupy the offered space," no later than May 1, or 30 days after receipt of this Final Offer, whichever is later.

The Final Offer of Facilities may differ from the Preliminary Offer, based on any response received from the Charter School (by March 1) or other factors, including changes in the District's final enrollment projections. Should the Charter School accept the Final Offer of Facilities, the District will require it to enter into a Facilities Use Agreement (sample agreement linked as [Exhibit H](#)), containing the terms and conditions of the District's facilities allocation. Note that the District's sample Facilities Use Agreement has incorporated some of the feedback provided in charter schools' responses to Preliminary Offer letters. The District provides this proposed agreement without prejudice to its right to propose or modify terms during the process of negotiating the agreement.

If you have any questions, please do not hesitate to contact me.



Sonali Murarka, Director, Office of Charter Schools

Proposition 39 Final Offer Exhibits

Exhibit A – Specific Space Offered to Charter School [see below]

[Exhibit B](#) – MKThink Data, Facilities Master Plan and Calculation of Non-Classroom Space Entitlement

[Exhibit C](#) – Jacobs Study, Facilities Condition Data and Classroom Inventory

[Exhibit D](#) – Form SAB 50-02

[Exhibit E](#) – Calculation of Specialized Classroom Space Entitlement

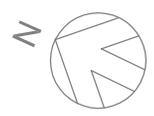
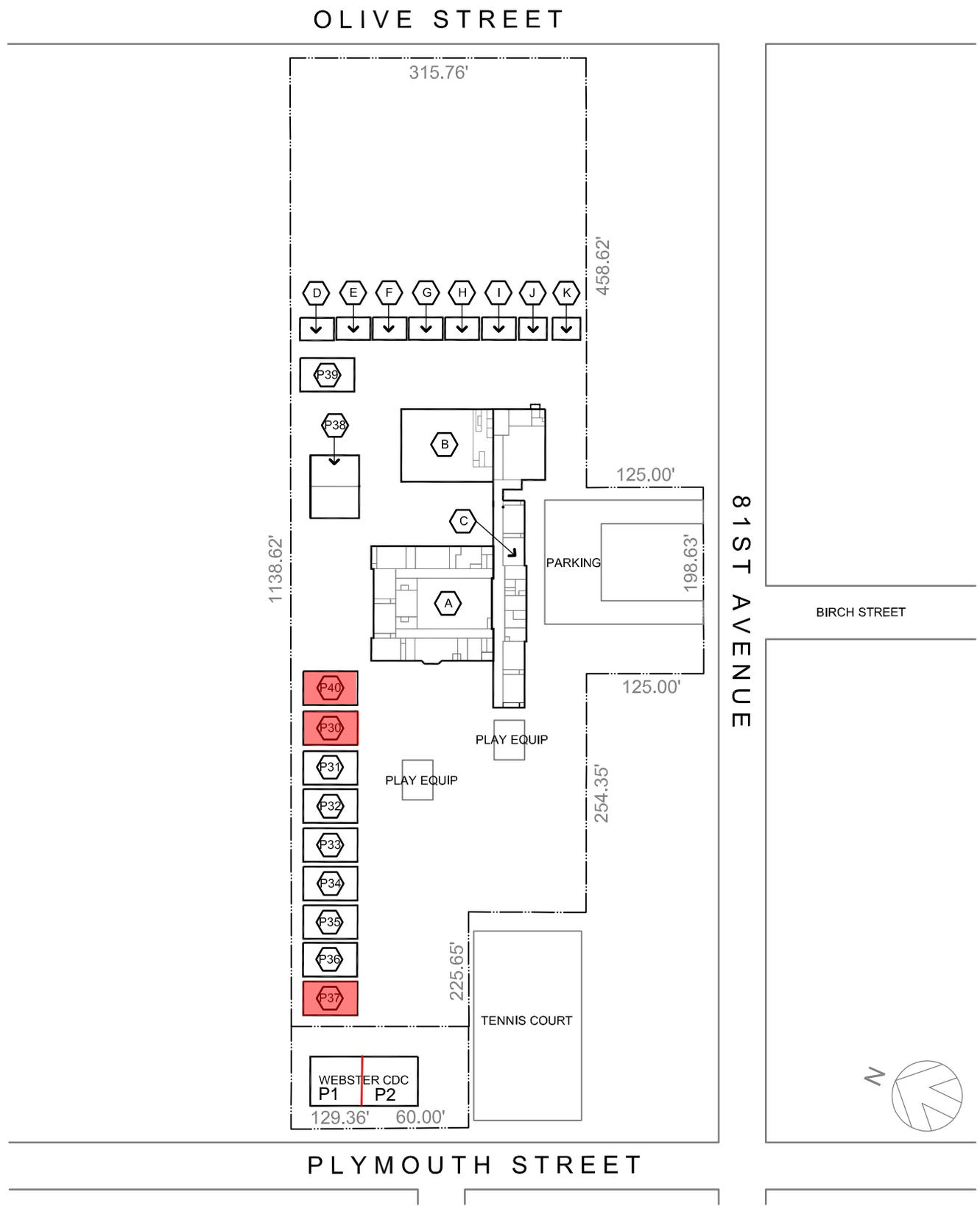
[Exhibit F](#) – Calculation of Pro Rata Share

Exhibit G – Allocation, Fees, and Payment Schedule [see below]

[Exhibit H](#) – Sample Facilities Use Agreement

[Exhibit I](#) – Multi-Site Resolution (January 23, 2019) and Amended Resolution (March 20, 2019)

Exhibit A



SITE PLAN

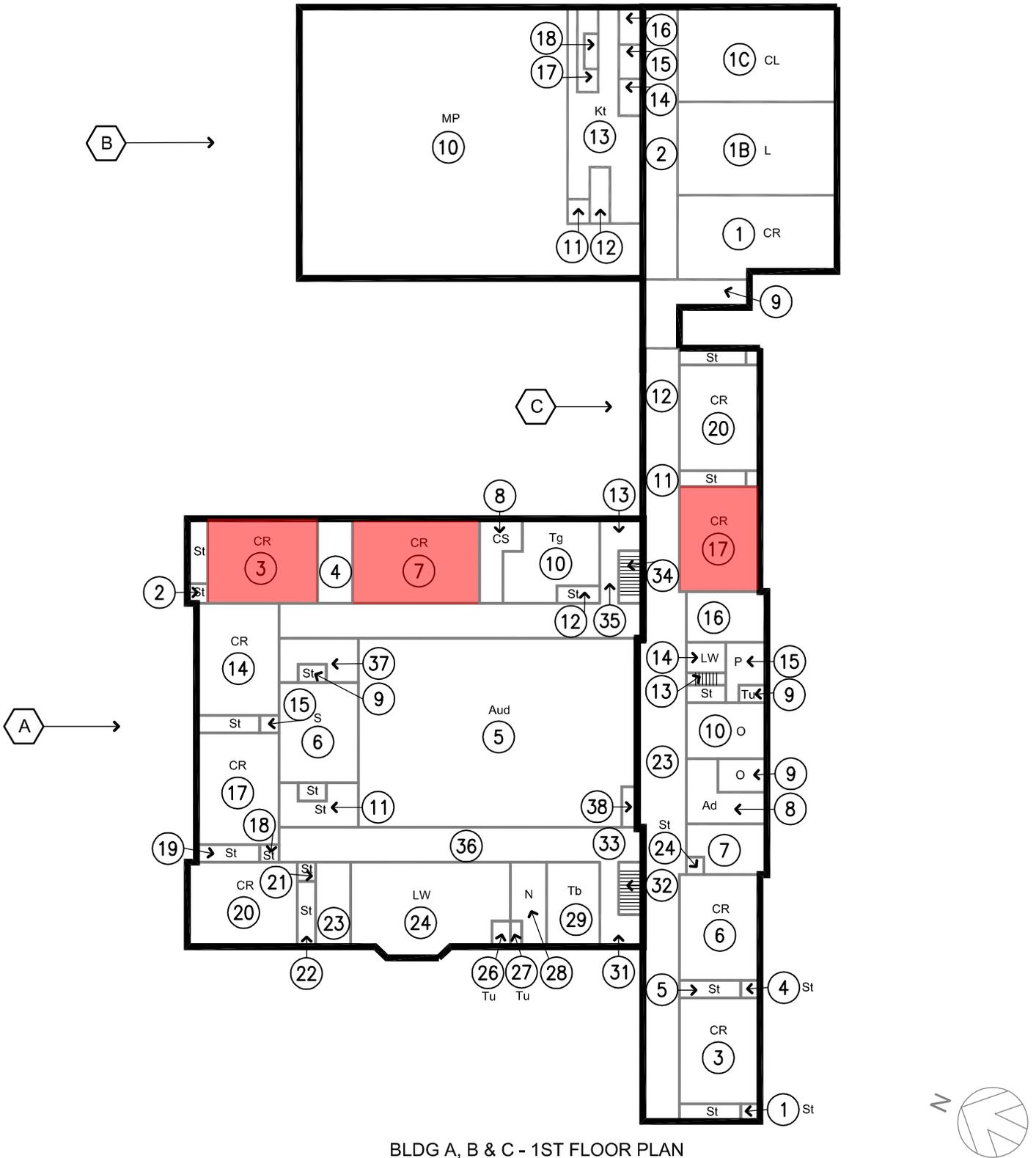


162 - WEBSTER ACADEMY ELEMENTARY SCHOOL
 8000 BIRCH STREET, OAKLAND, CA 94621-2313



Date: 1/18/2013

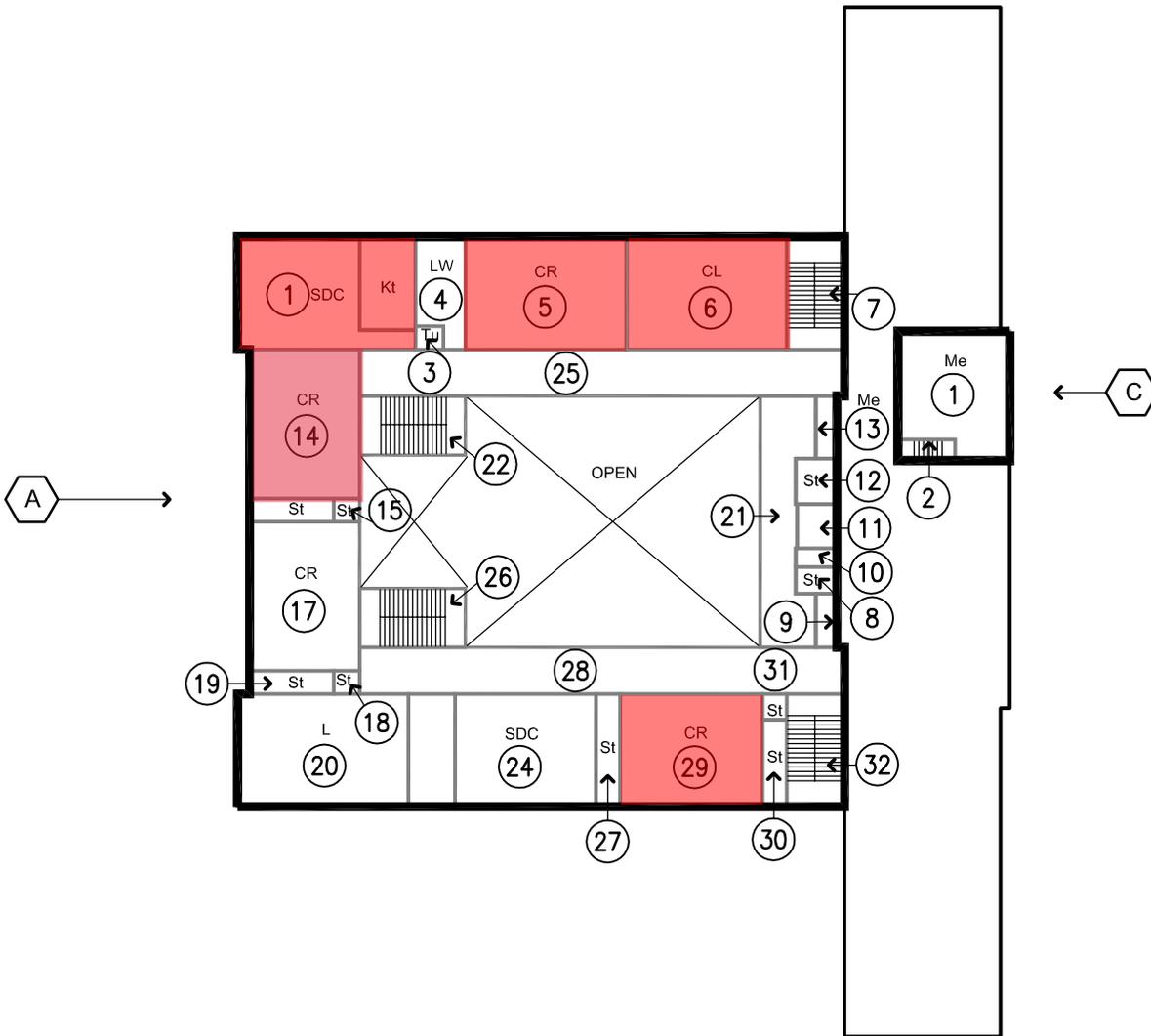
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BLDG A, B & C - 1ST FLOOR PLAN

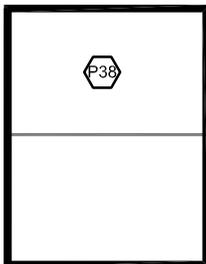
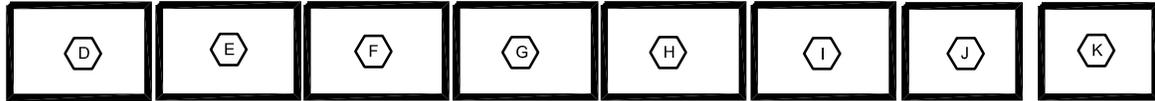
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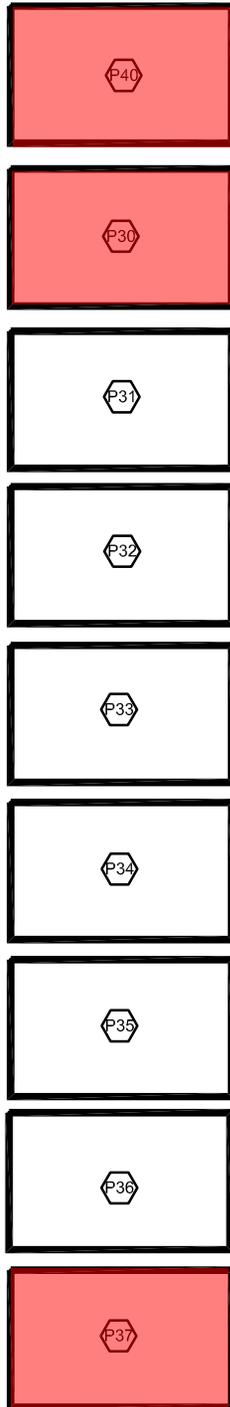
BLDG A & C - 2ND FLOOR PLAN





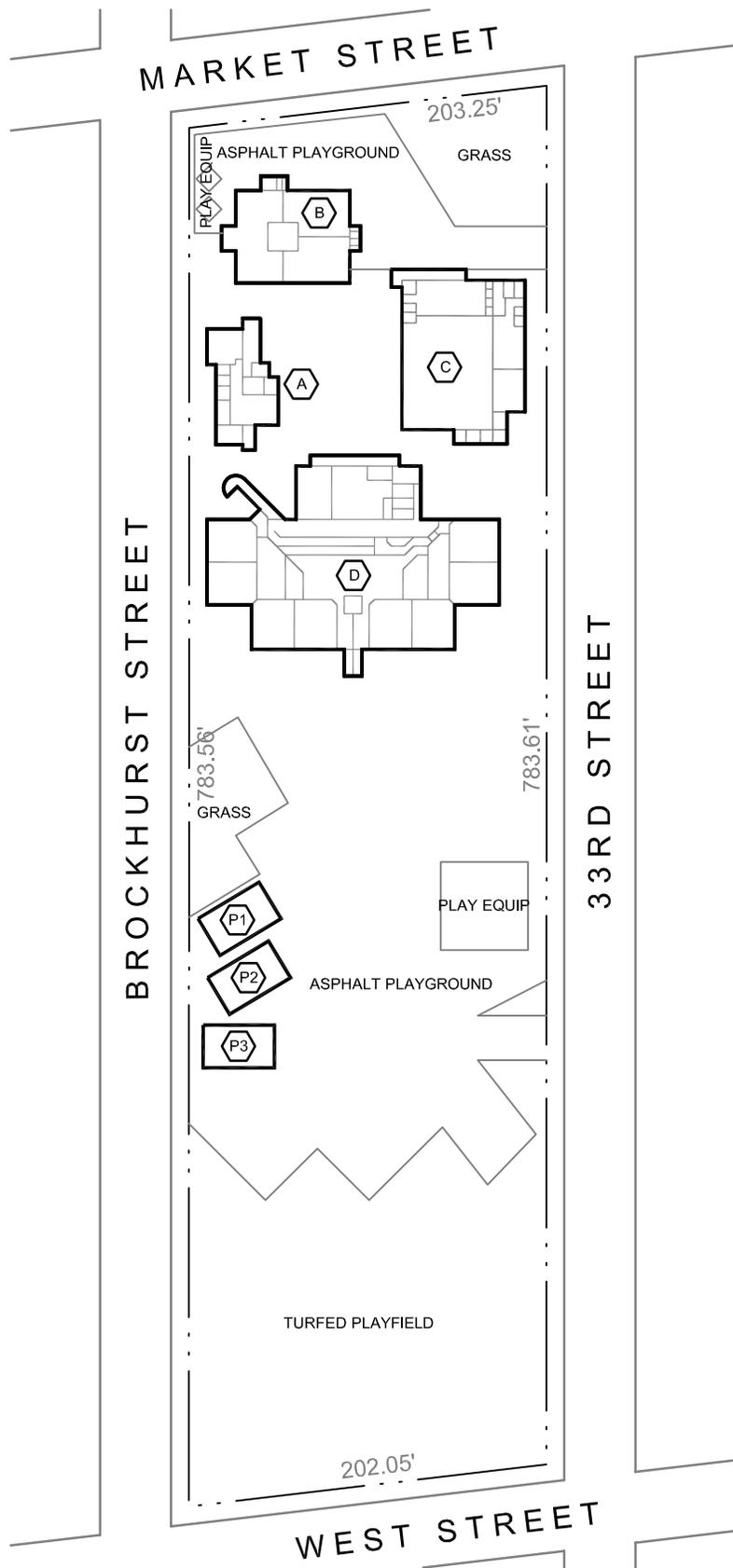
PORT D-K, 38 & 39 - 1ST FLOOR PLAN





PORT 30-37 & 40 - 1ST FLOOR PLAN





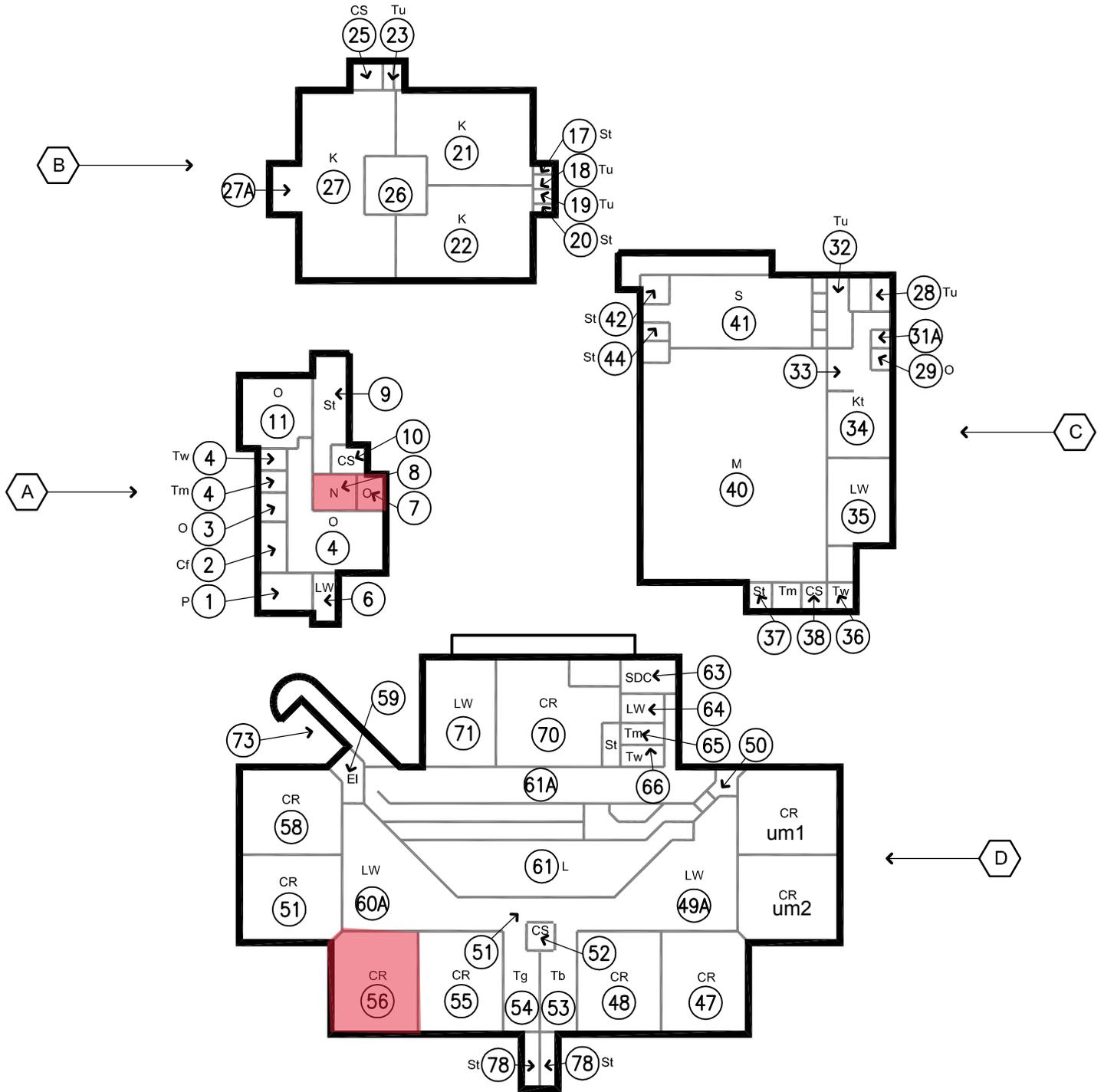
SITE PLAN

170 - HOOVER ELEMENTARY SCHOOL
890 BROCKHURST STREET, OAKLAND, CA 94608-4318



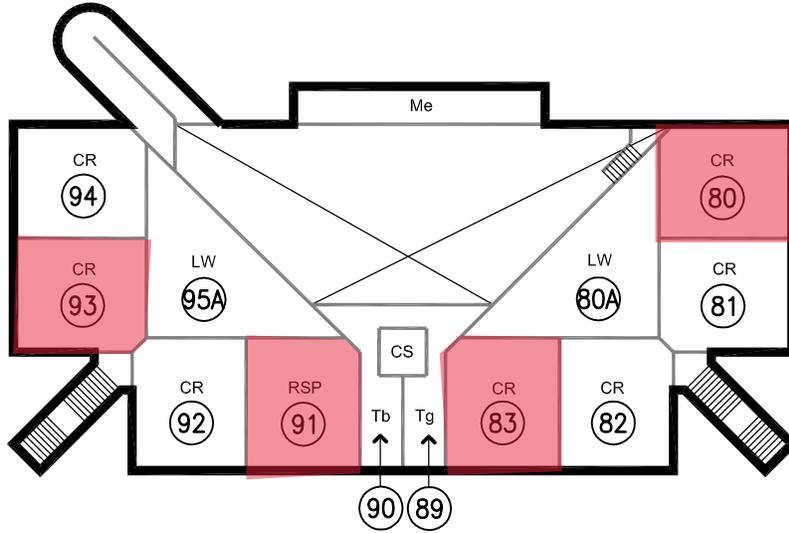
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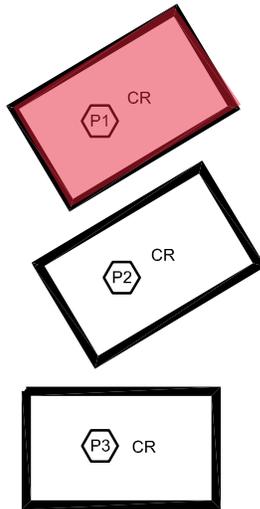


BLDG A, B, C & D - 1ST FLOOR PLAN





BLDG D - 2ND FLOOR PLAN



PORT P1-P3 - 1ST FLOOR PLAN



BLDG D 2ND FLOOR & PORT P1-P3 - 1ST FLOOR PLAN



170 - HOOVER ELEMENTARY SCHOOL
 890 BROCKHURST STREET, OAKLAND, CA 94608-4318

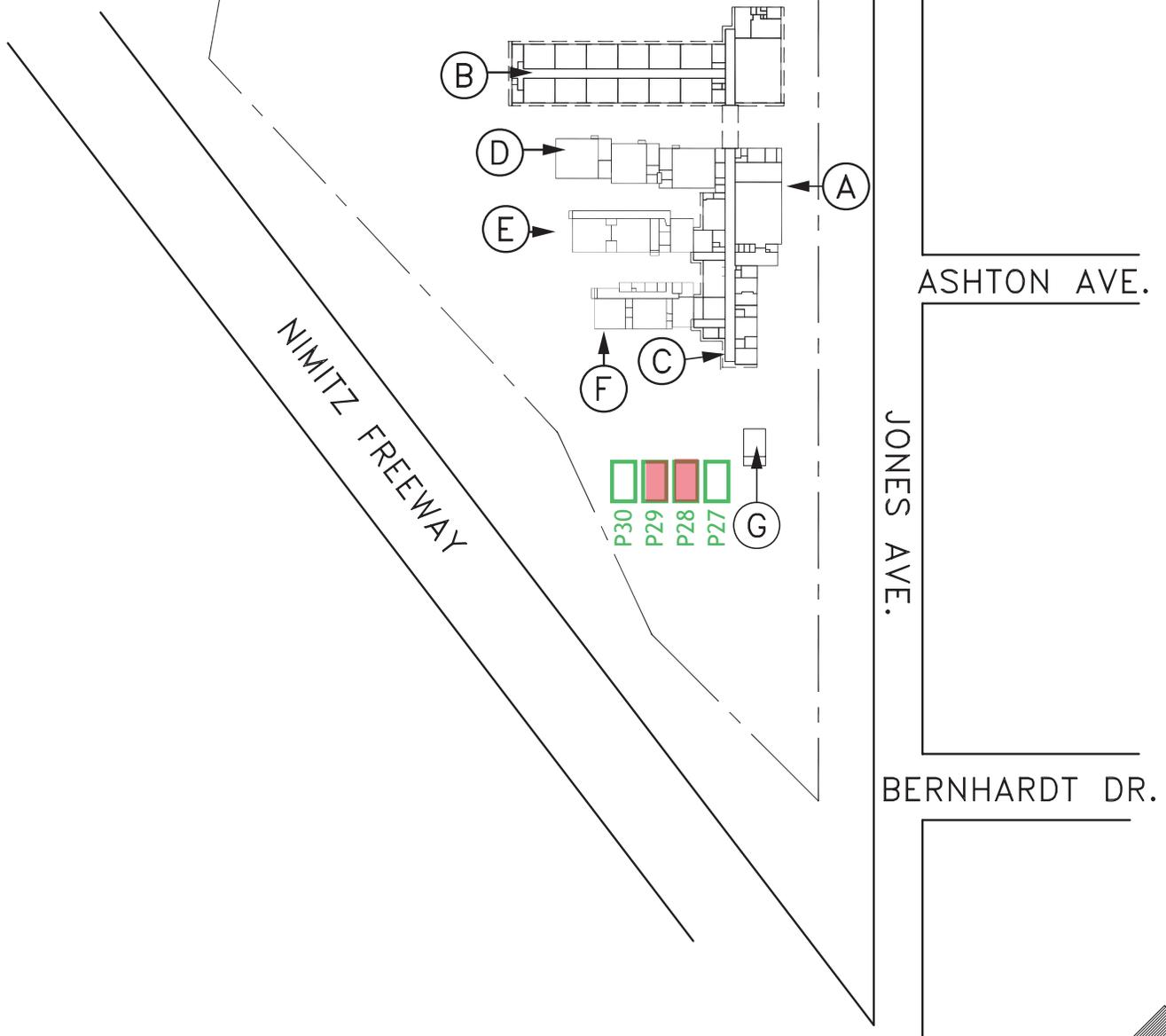
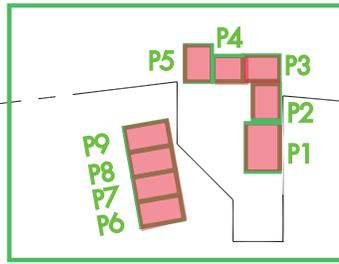


Date: 1/18/2013

Scale: 1"=40'-0"

Exclusive Use by
Charter School

Brookfield Annex



Not drawn to scale

103 - Brookfield Elementary School - Site Plan

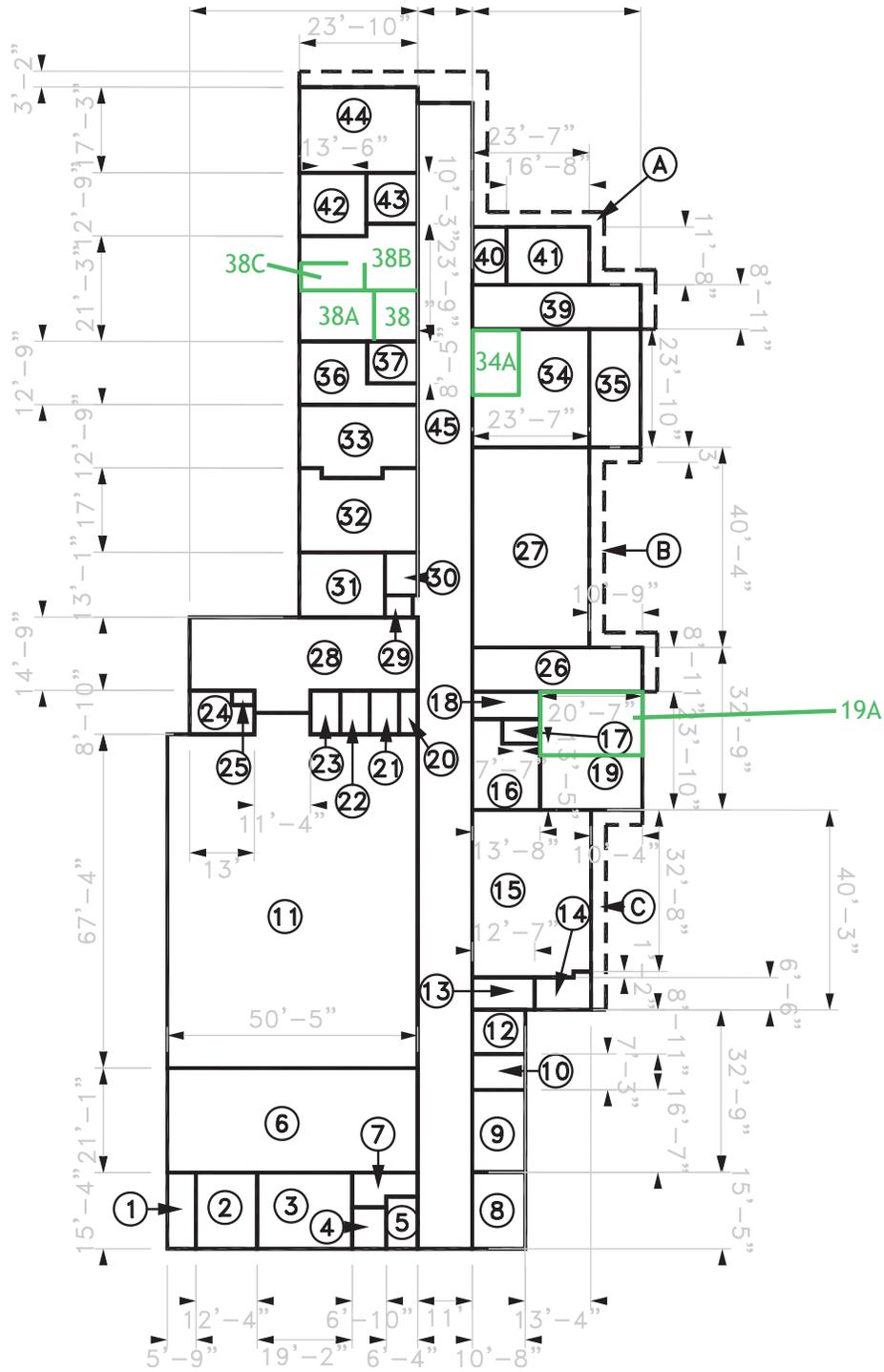
401 Jones Avenue - Oakland, CA 94603-1123

MKTHINK

Roundhouse One, 1500 Sansome Street, San Francisco, CA 94111
mkthink.com 415.402.0888

February 2012





Not drawn to scale



103 - Brookfield Elementary School - Unit A

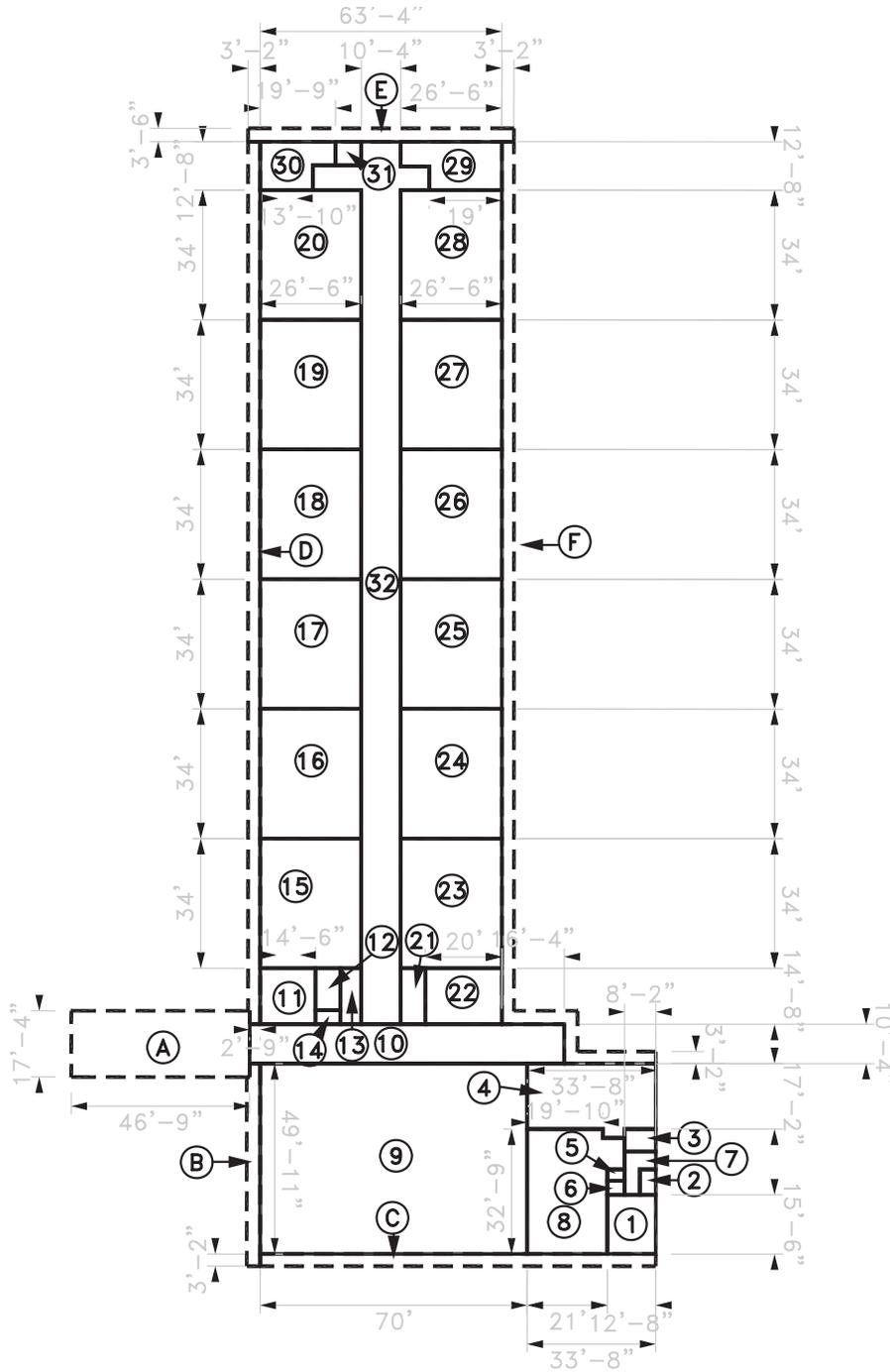
401 Jones Avenue - Oakland, CA 94603-1123

MKTHINK

Roundhouse One, 1500 Sansome Street, San Francisco, CA 94111
mkthink.com 415 402 0888

February 2012





Not drawn to scale

103 - Brookfield Elementary School - Unit B

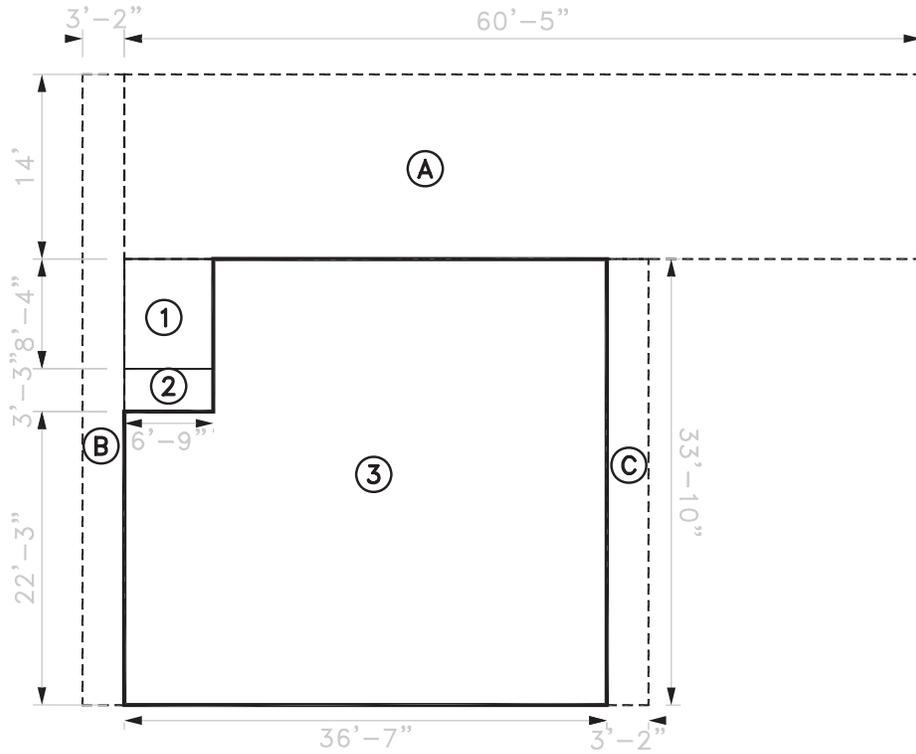
401 Jones Avenue - Oakland, CA 94603-1123

MKTHINK

Roundhouse One, 1500 Sansome Street, San Francisco, CA 94111
mkthink.com 415 402 0888

February 2012





Not drawn to scale

103 - Brookfield Elementary School - Unit C

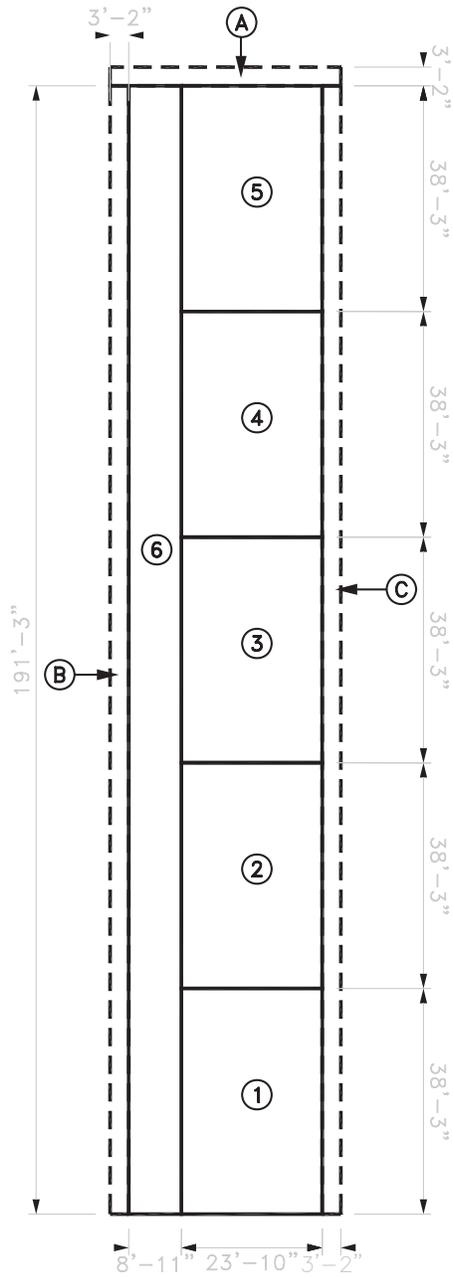
401 Jones Avenue - Oakland, CA 94603-1123

MKTHINK

Roundhouse One, 1500 Sansome Street, San Francisco, CA 94111
mkthink.com 415 402 0888

February 2012





Not drawn to scale

103 - Brookfield Elementary School - Unit D

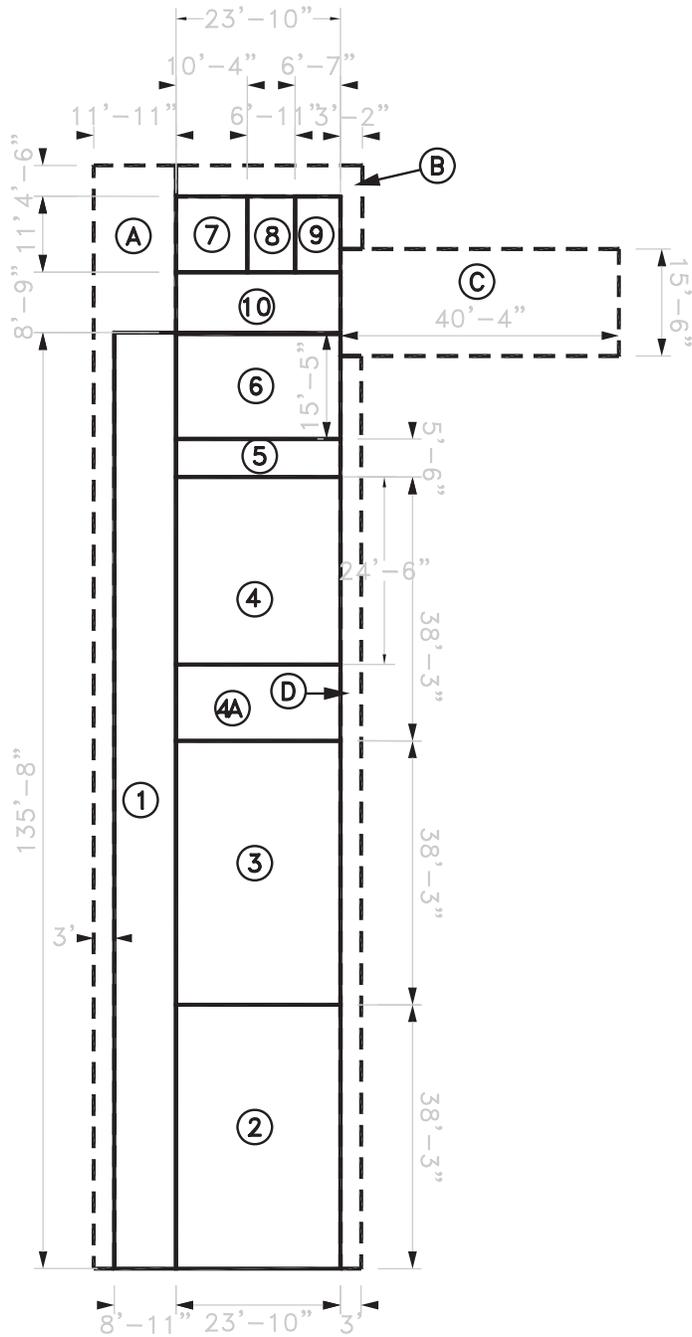
401 Jones Avenue - Oakland, CA 94603-1123

MKTHINK

Roundhouse One, 1500 Sansome Street, San Francisco, CA 94111
 mkthink.com 415 402 0888

February 2012





Not drawn to scale

103 - Brookfield Elementary School - Unit E

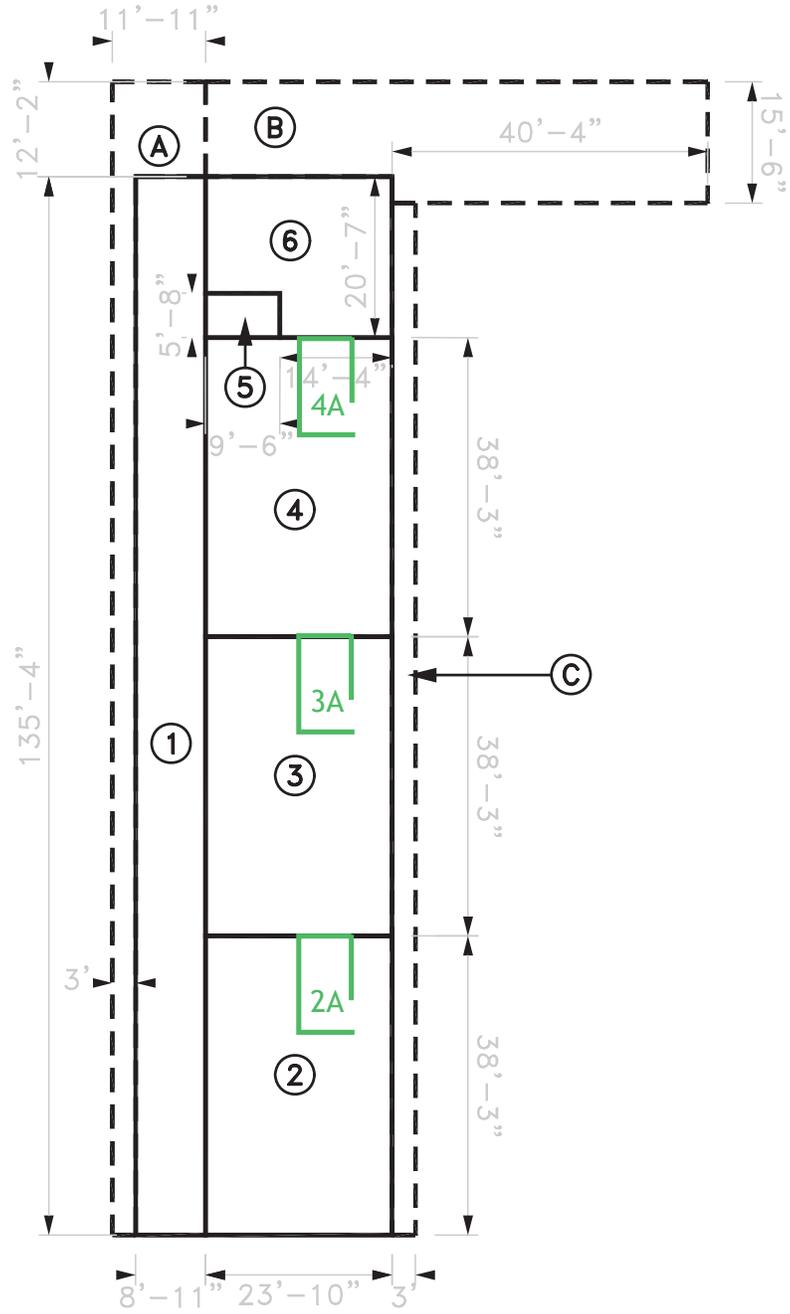
401 Jones Avenue - Oakland, CA 94603-1123

MKTHINK

Roundhouse One, 1500 Sansome Street, San Francisco, CA 94111
mkthink.com 415.402.0888

February 2012





Not drawn to scale

103 - Brookfield Elementary School - Unit F

401 Jones Avenue - Oakland, CA 94603-1123

MKTHINK

Roundhouse One, 1500 Sansome Street, San Francisco, CA 94111
 mkthink.com 415 402 0888

February 2012



Exhibit G

Allocation, Fees, & Payment Schedule

Contract Term (Fiscal Year):	2019-20
Charter School Name:	American Indian Public Charter School II
Site Name:	Webster Campus
Address:	8000 Birch St, Oakland, CA
SPACE ALLOCATION	
Exclusive Use Space (sqft)	8,918
+ Proportion of Shared Space (sqft)	12,648
Total Space Allocation at Site (sqft)*	21,566
FACILITY USE FEE	
Total Space Allocation at Site (sqft)	21,566
x Facility Fee Sqft Rate	\$4.62
Facility Use Fee	\$99,634.92
UTILITIES FEE	
Projected Charter School ADA at Site**	270.71
÷ Projected Total Site ADA	561.59
Charter School Percent of Site Use	48.20%
CUSTODIAL SERVICES FEE	
Charter School Percent of Site Use	48.20%
x Number of Custodial FTE at Site	3.0
x Custodial Services FTE Rate	\$75,599
Custodial Services Fee	\$109,316.15
PAYMENT SCHEDULE	
25% by October 1, 2019	
25% by December 1, 2019	
25% by April 1, 2020	
25% by July 1, 2020	

Note: All calculations subject to change.

*Includes only interior space.

**Includes total (in-district + out-of-district) projected ADA as reported in the schools' facilities request forms.

Exhibit G

Allocation, Fees, & Payment Schedule

Contract Term (Fiscal Year):	2019-20
Charter School Name:	American Indian Public Charter School II
Site Name:	Hoover Campus
Address:	890 Brockhurst St, Oakland, CA
SPACE ALLOCATION	
Exclusive Use Space (sqft)	4,379
+ Proportion of Shared Space (sqft)	5,433
Total Space Allocation at Site (sqft)*	9,812
FACILITY USE FEE	
Total Space Allocation at Site (sqft)	9,812
x Facility Fee Sqft Rate	\$4.62
Facility Use Fee	\$45,331.44
UTILITIES FEE	
Projected Charter School ADA at Site**	147.66
÷ Projected Total Site ADA	406.52
Charter School Percent of Site Use	36.32%
CUSTODIAL SERVICES FEE	
Charter School Percent of Site Use	36.32%
x Number of Custodial FTE at Site	2.5
x Custodial Services FTE Rate	\$75,599
Custodial Services Fee	\$68,643.89
PAYMENT SCHEDULE	
25% by October 1, 2019	
25% by December 1, 2019	
25% by April 1, 2020	
25% by July 1, 2020	

Note: All calculations subject to change.

*Includes only interior space.

**Includes total (in-district + out-of-district) projected ADA as reported in the schools' facilities request forms.

Exhibit G

Allocation, Fees, & Payment Schedule

Contract Term (Fiscal Year):	2019-20
Charter School Name:	American Indian Public Charter School II
Site Name:	Brookfield Campus
Address:	401 Jones Ave, Oakland, CA
SPACE ALLOCATION	
Exclusive Use Space (sqft)	9,406
+ Proportion of Shared Space (sqft)	15,523
Total Space Allocation at Site (sqft)*	24,929
FACILITY USE FEE	
Total Space Allocation at Site (sqft)	24,929
x Facility Fee Sqft Rate	\$4.62
Facility Use Fee	\$115,171.98
UTILITIES FEE	
Projected Charter School ADA at Site**	246.10
÷ Projected Total Site ADA	451.12
Charter School Percent of Site Use	54.55%
CUSTODIAL SERVICES FEE	
Charter School Percent of Site Use	54.55%
x Number of Custodial FTE at Site	3.5
x Custodial Services FTE Rate	\$75,599
Custodial Services Fee	\$144,337.39
PAYMENT SCHEDULE	
25% by October 1, 2019	
25% by December 1, 2019	
25% by April 1, 2020	
25% by July 1, 2020	

Note: All calculations subject to change.

*Includes only interior space.

**Includes total (in-district + out-of-district) projected ADA as reported in the schools' facilities request forms.