



OFFICE OF CHARTER SCHOOLS

March 30, 2023

Emily Wood
Yu Ming Charter School
675 41st Ave
Oakland, CA 94609

ewood@yumingschool.org

Re: Proposition 39 Facilities Request for 2023-24
Final Offer of Facilities, 2023-24

Dear Emily Wood:

The Oakland Unified School District (“OUSD” or “District”) makes this Final Offer of Facilities to Yu Ming Charter School (“Charter School”) for the 2023-24 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 (“Proposition 39”),¹ as well as the policies and procedures of the District and the Office of Charter Schools².

A. 2023-24 FINAL OFFER TO THE CHARTER SCHOOL

The District’s allocation of space is based on a projected in-District Average Daily Attendance (“ADA”) of **383.49**. The District has elected to use the counterprojection contained in its December 1, 2022 letter, instead of the Charter School’s ADA projection contained in its facilities request.

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

Brookfield Elementary School
401 Jones Ave, Oakland, CA 94603

The Charter School’s allocation of space is summarized in section C below.

B. COMPARISON GROUP

The Charter School’s facilities space entitlement is based on space provided to students at a set of District-operated comparison schools.³ The District must first identify the high school attendance area in which the largest number of in-District charter school students reside, which for the Charter School is Oakland Tech attendance area. Details about the determination of the Charter School’s high school attendance area can be found in Table 1 below.

¹ Cal. Ed. Code § 47614; Cal. Admin. Code, title 5, §§ 11969.1, *et seq.*

² The District also abided by the terms of the Proposition 39 Settlement Agreement and Specific Release of All Claims (“Settlement Agreement”) between the California Charter School Association (“CCSA”) and OUSD from September 2020 (https://www.ousdcharters.net/uploads/1/2/1/3/121378744/ccsa-ousd_settlement_agreement.pdf)

³ Cal. Admin. Code, title 5, § 11969.3



OFFICE OF CHARTER SCHOOLS

Table 1: High School Attendance Area

High School Attendance Area	# of Students
Outside of Oakland	420
OAKLAND TECH	131
SKYLINE	78
OAKLAND HIGH	54
CASTLEMONT/CCPA/MADISON	33
MCCLYMONDS	31
FREMONT	20

The District then identified “the 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.”⁴ Using the methodology in the regulations, the District determined that the comparison group schools for the Charter School are as follows:

- **TK-5:**
 - Chabot Elementary
 - Emerson Elementary
 - Hillcrest School
 - Lincoln Elementary
 - Peralta Elementary
 - Piedmont Avenue Elementary
 - Sankofa United Elementary
- **6-8:**
 - Claremont Middle School
 - Westlake Middle School
 - Hillcrest School

C. REASONABLE EQUIVALENCE EVALUATION

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.⁵

With respect to “capacity”, the District allocates facilities to the Charter School that are reasonably equivalent to the comparison group as follows in the categories of facilities listed below:

- Ratio of teaching stations (classrooms) to average daily attendance (“ADA”)
- Specialized classroom space if such facilities are available to the district comparison group (e.g., science laboratories)
- Non-teaching space, which the district can share with the charter school (e.g., administrative, kitchen, multi-purpose, and/or play area space)

⁴ Cal. Admin. Code tit. 5, § 11969.3(a)(2)

⁵ Cal. Admin. Code tit. 5, §11969.3(c)



OFFICE OF CHARTER SCHOOLS

C1. Capacity - Exclusive-Use Classrooms (Non-Specialized)

C1a. Classroom Entitlement

The District has determined the number of classrooms (excluding specialized classroom space) the Charter School is entitled to based on the number of classrooms (non-specialized) “provided to” District students at the comparison group schools.

To determine the number of classrooms “provided to” District students at District schools, the District has created an updated inventory of classrooms at each comparison group school. This inventory was compiled primarily by OUSD staff, including recent changes to District sites and is included as Exhibit C.

Based on the number of classrooms (non-specialized) “provided to” District students at the comparison group schools, the District determined the ADA-to-classroom ratio at the comparison group schools as 21.27 per classroom for grades TK-5 and 20.01 per classroom for grades 6-8 as demonstrated in the table(s) below.

Table 2a: Classroom Entitlement Calculation for Grades TK-5

Comparison School(s) Serving TK-5						
High School Attendance Area: OAKLAND TECH						
A. Comparison School Name	B. Projected ADA (Non-SDC)	C. Total Number of Classrooms (Non- Specialized)	D. Number of Classrooms <i>Not</i> Provided to K-12 Students	E. Number of SDC Classrooms ⁶	F. Number of Classrooms Provided to K-12 Students (C-D-E)	G. ADA per Classroom (B/F)
Chabot Elementary	533.37	22	0	2	20	26.67
Emerson Elementary	276.09	23	4	4	15	18.41
Hillcrest School	328.05	14	0	0	14	23.43
Lincoln Elementary	656.07	29	0	0	29	22.62
Peralta Elementary	333.76	14	0	0	14	23.84
Piedmont Avenue Elementary	275.35	18	0	2	16	17.21
Sankofa United Elementary	234.32	18	2	2	14	16.74
H. District Comparison School Average ADA per Classroom: (Average of Column G)						21.27
I. Charter School's Projected TK-5 ADA:						329.41
Number of TK-5 classrooms charter is entitled to: (Row I / Row H)						15.5

⁶ SDC=Special Day Classroom. Per the Settlement Agreement, when determining the number of classrooms provided to District students at each comparison school, the District may subtract the number of classrooms that are projected to be used for SDC instruction. SDC classrooms are included as interior room non-classroom space.



OFFICE OF CHARTER SCHOOLS

Table 2b: Classroom Entitlement Calculation for Grades 6-8

Comparison School(s) Serving 6-8						
High School Attendance Area: OAKLAND TECH						
A. Comparison School Name	B. Projected ADA (Non-SDC)	C. Total Number of Classrooms (Non-Specialized)	D. Number of Classrooms Not Provided to K-12 Students	E. Number of SDC Classrooms ⁷	F. Number of Classrooms Provided to K-12 Students (C-D-E)	G. ADA per Classroom (B/F)
Hillcrest School	328.05	14	0	0	14	23.43
Claremont Middle School	426.87	22	0	2	20	21.34
Westlake Middle School	243.97	18	0	2	16	15.25
H. District Comparison School Average ADA per Classroom: (Average of Column G)						20.01
I. Charter School's Projected Gr. 6-8 ADA:				54.08		
Number of Gr. 6-8 classrooms charter is entitled to: (Row I / Row H)				2.7		

Table 3: Total Classroom Entitlement Summary by Grade Span

Grade Span	Classroom Entitlement
TK-5	15.5
6-8	2.7
Total	18.2

The District's calculation of the Charter School's classroom entitlement shows that the Charter School is entitled to an allocation of 19 (rounded up from 15.5 + 2.7 = 18.2) classrooms.

C1b. Classroom Allocation

The Charter School's allocation of exclusive-use classrooms is summarized in Table 4 and Table 5 below. The location of the exclusive-use classrooms offered to the Charter School in this Final Offer is depicted in the diagrams attached as Exhibit A.

Table 4: Exclusive-Use Classroom (Non-Specialized) Allocation Summary

School Site	Total Classrooms
Brookfield	19

⁷ SDC=Special Day Classroom. Per the Settlement Agreement, when determining the number of classrooms provided to District students at each comparison school, the District may subtract the number of classrooms that are projected to be used for SDC instruction. SDC classrooms are included as interior room non-classroom space.



OFFICE OF CHARTER SCHOOLS

Table 5: Exclusive-Use Classroom Allocation

School Site	Room # (See location on Exhibit A)
Brookfield	Portable 6
Brookfield	Portable 8
Brookfield	Portable 9
Brookfield	Portable 27
Brookfield	Portable 28
Brookfield	Portable 29
Brookfield	Portable 30
Brookfield	4
Brookfield	6
Brookfield	7
Brookfield	10
Brookfield	11
Brookfield	12
Brookfield	13
Brookfield	16
Brookfield	18
Brookfield	20
Brookfield	21
Brookfield	26

C2. Capacity – Specialized Classroom Space

The Proposition 39 regulations⁸ require access to specialized classroom space based on three factors:

1. The grade levels of the charter school’s in-District students;
2. The charter school’s total in-District classroom ADA; and
3. The per-student amount of specialized classroom space in the comparison group schools.

Specialized Classroom Space (SCS) has been divided into three categories: science lab, art, and technology, per the CCSA Settlement Agreement.

C2a. Specialized Classroom Space (SCS) Entitlement

The District has determined the amount of Specialized Classroom Space (SCS) the Charter School is entitled to, based on the amount of SCS provided to District students at the comparison group schools. From that list, the District determined the SCS sq ft-to-ADA ratios at the comparison schools as demonstrated in the table(s) below.

Table 6a: SCS Entitlement Calculation for Grades TK-5

Comparison School(s) Serving TK-5				
High School Attendance Area: OAKLAND TECH				
Comparison School Name	Projected ADA (Non-SDC)	Arts Specialized Classroom Space	Science Lab Specialized Classroom Space	Tech Specialized Classroom Space

⁸ Cal. Admin. Code title 5, § 11969.3(b)(2)



OFFICE OF CHARTER SCHOOLS

		(sq ft)	(sq ft/ADA)	(sq ft)	(sq ft/ADA)	(sq ft)	(sq ft/ADA)
Chabot Elementary	533.37	1,899	3.56	685	1.28	903	1.69
Emerson Elementary	276.09	0	0.00	0	0.00	0	0.00
Hillcrest School	328.05	0	0.00	898	2.74	0	0.00
Lincoln Elementary	656.07	0	0.00	0	0.00	837	1.28
Peralta Elementary	333.76	0	0.00	0	0.00	0	0.00
Piedmont Avenue Elementary	275.35	0	0.00	895	3.25	710	2.58
Sankofa United Elementary	234.32	0	0.00	0	0.00	0	0.00
A. District Comparison School Average Sq Ft/ADA:		0.51		1.04		0.79	
B. Charter School's Projected TK-5 ADA:		329.41		329.41		329.41	
TK-5 specialized classroom space (sq ft) charter is entitled to: (Row A x Row B)		168		342		261	

Table 6b: SCS Entitlement Calculation for Grades 6-8

Comparison School(s) Serving Gr. 6-8							
High School Attendance Area: OAKLAND TECH							
Comparison School Name	Projected ADA (Non-SDC)	Arts Specialized Classroom Space		Science Lab Specialized Classroom Space		Tech Specialized Classroom Space	
		(sq ft)	(sq ft/ADA)	(sq ft)	(sq ft/ADA)	(sq ft)	(sq ft/ADA)
Hillcrest School	328.05	0	0.00	898	2.74	0	0.00
Claremont Middle School	426.87	1,578	3.70	3,278	7.68	0	0.00
Westlake Middle School	243.97	4,121	16.89	2,099	8.60	1,463	6.00
A. District Comparison School Average Sq Ft/ADA:		6.86		6.34		2.00	
B. Charter School's Projected Gr. 6-8 ADA:		54.08		54.08		54.08	
Gr. 6-8 specialized classroom space (sq ft) charter is entitled to: (Row A x Row B)		371		343		108	

Table 7: Total SCS Entitlement Summary by Grade Span

Grade Span	SCS Entitlement (sq ft)			
	Arts	Science Lab	Tech	Total
TK-5	168	342	261	771
6-8	371	343	108	822



OFFICE OF CHARTER SCHOOLS

Total	539	685	369	1,593
--------------	------------	------------	------------	--------------

The District’s calculation of the Charter School’s SCS entitlement shows that the Charter School is entitled to access to approximately 539 sq ft of Arts SCS, 685 sq ft of Science Lab SCS, and 369 sq ft of Technology SCS. This space may be shared with another school or exclusive use.

C2b. Specialized Classroom Space Allocation

The amount of SCS available on the offered school site for shared access is summarized in Table 8 below. There is no designated Arts SCS at the offered site; however, the Charter School specifically requested a single site and the offered site is the only site available which could accommodate the Charter School’s entire non-specialized classroom entitlement. Should the Charter School accept the present allocation of facilities at the Brookfield Campus as a Final Offer, the co-located schools will develop a shared access schedule for the available shared Science Lab and Tech SCS based on each school’s ADA and the reasonable equivalence standard. Detailed data related to the specific SCS present at District sites is provided in Exhibit C.

Table 8: Specialized Classroom Space (SCS) Existing at Offer Site

School Site	Arts SCS (sq ft)	Science Lab SCS (sq ft)	Tech SCS (sq ft)	Total SCS (sq ft)
Brookfield	0	1,166	847	2,013

C3. Capacity – Non-Classroom Space

C3a. Non-Classroom Space Entitlement

As shown in the table(s) below, the District calculated the total amount of non-classroom space, as defined in the regulations, to which the Charter school is entitled based on the non-classroom square footage per ADA at each of the comparison group schools.⁹ A table showing the calculation of non-classroom space at District sites is included in Exhibit C.¹⁰

Table 9a: Non-Classroom Space (NCS) Sq ft/ADA Entitlement for Grades TK-5

Comparison School(s) Serving TK-5															
High School Attendance Area: OAKLAND TECH															
Comparison School Name	Projected ADA (incl. SDC)	Assembly		Dining		Athletic		Library		Operational		Interior Room		Exterior	
		(sq ft)	(sq ft/ADA)	(sq ft)	(sq ft/ADA)	(sq ft)	(sq ft/ADA)	(sq ft)	(sq ft/ADA)	(sq ft)	(sq ft/ADA)	(sq ft)	(sq ft/ADA)		
Chabot Elementary	551.34	4,901	8.89	0	0.00	0	0.00	2,480	4.50	8,410	15.25	4,340	7.87	141,292	256.27

⁹ Cal. Admin. Code title 5, § 11969.3(b)(3).

¹⁰ These categories of non-classroom space were established under the CCSA Settlement Agreement.



OFFICE OF CHARTER SCHOOLS

Emerson Elementary	296.64	3,754	12.66	0	0.00	0	0.00	1,140	3.84	8,066	27.19	6,508	21.94	185,443	625.14
Hillcrest School	328.05	2,165	6.60	0	0.00	0	0.00	1,242	3.79	6,116	18.64	1,988	6.06	72,696	221.60
Lincoln Elementary	656.07	3,150	4.80	0	0.00	0	0.00	899	1.37	12,089	18.43	3,281	5.00	25,297	38.56
Peralta Elementary	333.76	4,692	14.06	0	0.00	0	0.00	1,207	3.62	2,002	6.00	2,064	6.18	54,062	161.98
Piedmont Avenue Elementary	292.72	3,461	11.82	0	0.00	0	0.00	1,004	3.43	13,251	45.27	4,701	16.06	72,241	246.79
Sankofa United Elementary	253.85	3,591	14.15	2,758	10.86	0	0.00	975	3.84	13,936	54.90	7,843	30.90	315,781	1,243.97
A. District Comparison School Average Sq Ft/ADA:		10.42		1.55		0.00		3.48		26.53		13.43		399.19	
B. Charter School's Projected TK-5 ADA:		329.41		329.41		329.41		329.41		329.41		329.41		329.41	
TK-5 NCS classroom space (sq ft) charter is entitled to: (Row A x Row B)		3,434		511		0		1,148		8,738		4,424		131,496	

Note: NCS allocated proportionally based on site enrollment if more than one school occupies the site. NCS added together across sites if school is located across multiple sites. Numbers in tables may not add up precisely due to rounding.

Table 9b: Non-Classroom Space (NCS) Sq ft/ADA Entitlement for Grades 6-8

Comparison School(s) Serving Gr. 6-8															
High School Attendance Area: OAKLAND TECH															
Comparison School Name	Projected ADA	Assembly		Dining		Athletic		Library		Operational		Interior Room		Exterior	
		(sq ft)	(sq ft/ADA)	(sq ft)	(sq ft/ADA)	(sq ft)	(sq ft/ADA)	(sq ft)	(sq ft/ADA)	(sq ft)	(sq ft/ADA)	(sq ft)	(sq ft/ADA)	(sq ft)	(sq ft/ADA)
Hillcrest School	328.05	2,165	6.60	0	0.00	0	0.00	1,242	3.79	6,116	18.64	1,988	6.06	72,696	221.60
Claremont Middle School	452.57	1,440	3.18	1,920	4.24	5,770	12.75	1,203	2.66	8,765	19.37	7,787	17.21	116,987	258.49
Westlake Middle School	270.17	2,966	10.98	0	0.00	7,111	26.32	1,223	4.53	15,883	58.79	5,640	20.87	128,449	475.44
A. District Comparison School Average Sq Ft/ADA:		6.92		1.41		13.02		3.66		32.27		14.71		318.51	
B. Charter School's Projected Gr. 6-8 ADA:		54.08		54.08		54.08		54.08		54.08		54.08		54.08	
Gr. 6-8 NCS classroom space (sq ft) charter is entitled to: (Row A x Row B)		374		76		704		198		1,745		796		17,225	

Note: NCS allocated proportionally based on site enrollment if more than one school occupies the site. NCS added together across sites if school is located across multiple sites. Numbers in tables may not add up precisely due to rounding.



OFFICE OF CHARTER SCHOOLS

Table 10: Total NCS Entitlement Summary by Grade Span

Grade Span	Assembly	Dining	Athletic	Library	Operational	Interior Room	Exterior
TK-5	3,434	511	0	1,148	8,738	4,424	131,496
6-8	374	76	704	198	1,745	796	17,225
Total for all grades	3,808	588	704	1,345	10,483	5,220	148,721

C3b. Non-Classroom Space Allocation

The Charter School's Non-Classroom Space (NCS) allocations are summarized below.

Table 11a: Exclusive-Use Non-Classroom Space (NCS) Allocation at Shared Sites

School Site	Room #	Sq Ft
Brookfield	44	515

Table 11b: Non-Classroom Space (NCS) Allocation Summary

Site	Projected Charter ADA at Site	Space Type	NCS Type						
			Assembly (sq ft)	Dining (sq ft)	Athletic (sq ft)	Library (sq ft)	Operational (sq ft)	Interior Room (sq ft)	Exterior (sq ft)
Brookfield	383.49	Existing at Site	4,498	3,495	0	951	18,321	5,969	353,651
		Exclusive-Use Allocation	0	0	0	0	0	515	0
		Shared Use Allocation*	3,584	2,784	0	758	14,596	4,756	281,753

*Calculated as Total Site NCS x Yu Ming's Proportion of Site In-District ADA. Yu Ming's Proportion of Total Site In-District ADA at Brookfield is calculated as $383.49 / (383.49 + 97.86) = 79.67\%$.

The table below summarizes the Charter School's non-classroom space sq ft/ADA allocation at the site offered, compared to the non-classroom space sq ft/ADA ratios to which the Charter School is entitled.

Table 12: Non-Classroom Space (NCS) Allocation vs. Entitlement

	Assembly (sq ft)	Dining (sq ft)	Athletic (sq ft)	Library (sq ft)	Operational (sq ft)	Interior Room (sq ft)	Exterior (sq ft)
Total NCS Entitlement	3,808	588	704	1,345	10,483	5,220	148,721
Total NCS Allocation	3,584	2,784	0	758	14,596	5,251	281,753

The District calculates the sq ft/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



OFFICE OF CHARTER SCHOOLS

considered to fall within reasonable equivalence standards if it is commensurate with the average of the sq ft/ADA ratios at the comparison group schools. The Charter School’s allocation of NCS is below its entitlement in some categories and above it in others; however, the Charter School specifically requested a single site and the offered site is the only site available which could accommodate the Charter School’s entire non-specialized classroom entitlement.

Upon request, the District also will offer the Charter School reasonably equivalent furnishings and equipment for 383.49 ADA.

C4. Condition

With respect to “condition”, the District allocates facilities to the Charter School that are comparable to the comparison group considering the characteristics outlined in the table below.

Table 13: Facility Characteristics to Determine Reasonable Equivalence of Condition

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)

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 B per the CCSA Settlement Agreement.

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.

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



OFFICE OF CHARTER SCHOOLS

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 site offered to the Charter School has a stronger facilities condition index, a greater school site size (measured by both acreage and Sq Ft/ADA), and a similar educational adequacy score to the comparison school. 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 14: School Site Condition Analysis, Comparison Sites vs Offer Site

School Name	School Site Size (acreage)	School Site Size (Sq Ft/ADA)	Facilities Condition Index*	Educational Adequacy Score**
Chabot Elementary	4.20	344.53	16%	59.66
Emerson Elementary	5.12	747.33	24%	55.01
Lincoln Elementary	1.38	92.41	57%	43.27
Hillcrest School	2.14	318.06	71%	43.79
Peralta Elementary	1.76	227.13	10%	42.54
Piedmont Avenue Elementary	2.44	363.10	39%	52.23
Sankofa United Elementary	7.81	1,344.63	78%	53.1
Claremont Middle School	3.79	364.79	22%	53.97
Westlake Middle School	5.73	626.35	39%	55.97
Comparison School Average	3.82	475.25	40%	51.06
Offer Site: Brookfield	9.52	813.85¹¹	24%	51.10

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

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

D. RESPONSE TO CHARTER SCHOOL’S MARCH 1, 2023 LETTER

The District addresses the Charter School’s March 1, 2023 response to the District’s Preliminary Offer of Facilities.¹²

¹¹ Figure calculated using the projected ADA for both the offer site and the Charter School.

¹² Per Cal. Admin. Code, title 5, §11969.9(h)



OFFICE OF CHARTER SCHOOLS

Findings Supporting Non-Contiguous Offer: The Charter School’s March 1, 2023 letter expresses “concerns includ[ing] the lack of support or evidence for the District Board of Education’s findings that Yu Ming’s projected in-District enrollment cannot be accommodated at a single site,” and “the lack of evidence for the District’s determinations regarding which District school sites have sufficient space to share with Yu Ming.” (Yu Ming March 1, 2023 letter, pp. 1-2.)

The Charter School appears to have taken this excerpt from its response to the District’s preliminary offer from 2022-2023. The District’s preliminary offer for 2023-2024 only proposed to locate the Charter School at single site, Brookfield Elementary, and did not involve findings regarding a multi-site offer.

Site Location: The Charter School stated it “does not wish to be located at Brookfield Elementary School” because it “does not believe it is in the best interests of the Brookfield community or Yu Ming for Yu Ming to be co-located on the Brookfield campus,” and requested that the District allocate space at another single site campus. (Yu Ming March 1, 2023 letter, p. 2.)

The District’s preliminary offer meets all of the site location requests contained in the charter school’s request for facilities. The preliminary offer identifies “contiguous, furnished and equipped” facilities at a site “in the City of Oakland with all classrooms allocated at a single site.” The preliminary offer proposes to allocate facilities that are appropriate for grades K-8 and that are separate from other programs.

Moreover, the Charter School is entitled to 19 general education classrooms. Other than Brookfield Elementary School, there is no single dedicated site or single site co-location that has sufficient capacity to accommodate the Charter School’s entire in-district ADA. Therefore, to fulfill the Charter School’s request of a single site offer, Brookfield Elementary School is the only option available.

The District has therefore complied with Proposition 39 with respect to the location of the facilities contained in the preliminary offer.

Specialized Classroom and Non-Teaching Space: The District’s methodology and allocation of specialized teaching space and non-teaching space adhered to the terms of the settlement agreement reached in the matter *California Charter Schools Association v. Oakland Unified School District*, Alameda County Superior Court Case No. RG16806690 (“CCSA Settlement Agreement.”)

The Charter School contends that “[t]he Preliminary Proposal does not include an allocation of art space to Yu Ming, even though 1 out of the 7 comparison elementary schools, and both of the comparison middle schools, have art space.” The Charter School acknowledges the District’s offer to allocate art space at a second site, and instead requests that “the District consider providing Yu Ming with moveable art furnishings and equipment that can be used in one of its classrooms for purposes of facilitating art instruction.” (Yu Ming March 1, 2023 letter, p. 4.)

The Charter School’s request for arts furnishings and equipment is not sufficiently specific. The Charter School’s facilities request, in the section calling for “unique facilities-related requests,” only asks for “classrooms and spaces that are consistent with providing supportive and enriching K-8 school experiences including, at a minimum, playground and play space, science and computer labs, athletic space, and music and arts facilities.” (Request for Facilities, p. 6.) The charter is similarly non-specific, stating that “[s]tudents receive instruction in art and music, including both Western and Eastern modes of expression, formats, and



OFFICE OF CHARTER SCHOOLS

examples. Additional opportunities also are provided through partnerships with community arts organizations.” (Yu Ming Charter, p. 22.)¹³ Therefore, the Charter School has not provided sufficient information to support its request for additional furnishings and equipment, as the information provided is not sufficiently specific to determine the specific furnishings and equipment requested by the Charter School.

The Charter School also contends that the “District has not allocated athletic space (e.g. gymnasium and locker room).” As noted in the Preliminary Offer, the District balanced the availability of art space and athletic space at the allocated facility against the impact of offering facilities at a second site. If Yu Ming still needs additional athletic space, the District will allocate such space at a second site.

In response to the Charter School’s request for the identification of interior rooms allocated as non-teaching space, see Table 11(a), above.

Calculation of Pro-Rata Share :

The Charter School claims that, when calculating the pro-rata share, “the District may not include the entire transfer in its pro rata share calculation, but rather may only include actual expenditures from the account on eligible facilities costs.” (Yu Ming March 1, 2023 letter, p. 4.) The meaning of this contention is unclear, and is not supported by the citation to *Mt. Diablo Unified School District v. Clayton Valley Charter High School* (2021) 69 Cal.App.5th 1004. The calculation of the pro-rata share, contained in Exhibit D of the preliminary offer, contains the breakdown of the RRMA transfer to Resource 8150, and complies with applicable law.

Debt Service Costs:

With respect to the inclusion of debt service costs in the calculation of the pro-rata share, Yu Ming states that “only unrestricted General Fund facilities costs that are not costs otherwise assumed by Yu Ming are included in the methodology.” However, there is no basis for this statement in the regulations. Cal. Admin. Code tit. 5, § 11969.7(d) states that “[f]or purposes of this section, the cost of facilities shall include debt service costs,” and contains no restriction of inclusion of “costs [not] otherwise assumed by Yu Ming.” The plain language of this provision therefore debunks the Charter School’s argument, and there is no basis for its request that “the District provide some documentation demonstrating that the emergency loan monies were spent on ‘facilities costs.’”

Custodial Services: As to the District’s provision of custodial services for co-located charter schools pursuant to the settlement agreement, the Charter School takes the “opportunity to object to the District’s requirement as inconsistent with law, as set forth in prior years’ responses. Prop. 39 specifically states that charter schools are responsible for performing the day to day operations and maintenance for their allocated space.” The Charter School should take up any objection to this settlement agreement term with the California Charter School Association. (Yu Ming March 1, 2023 letter, p. 5.)

Conclusion: Pursuant to 5 CCR § 11969.9(h), the District has met its obligation to review and respond to the Charter School’s concerns regarding the Preliminary Offer.

¹³ <https://drive.google.com/file/d/1w50BoopCvMYXiHX-7oydwfJxXVIFxzgC/view>



OFFICE OF CHARTER SCHOOLS

E. FINAL FACILITIES OFFER – OTHER TERMS AND CONDITIONS

E1. Pro-Rata Share

The calculation of the pro-rata share of facilities costs is attached as Exhibit D, and the Charter School's allocation, fees, and payment schedule is attached as Exhibit E.

E2. Overallocation Fee

In the event that the District overallocates facilities to a charter school based on the charter school's overprojection of ADA for a school year, the Charter School will incur an overallocation penalty.

Space is considered overallocated¹⁴ if:

1. The Charter School's actual in-District classroom ADA is less than the projection upon which the facility allocation was based; and
2. The difference is greater than or equal to either (a) 25 ADA, or (b) 10% 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.

F. CONCLUSION:

The Charter School must notify the 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. Please deliver a response to charteroffice@ousd.org. Please do not mail or hand deliver a response to this letter.

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 occupy the facilities allocated in the Final Offer of Facilities, the District will require it to enter into a Facilities Use Agreement (sample agreement linked as Exhibit F), containing the terms and conditions of the District's facilities allocation. The District provides this proposed agreement without prejudice to its right to propose or modify terms during the process of negotiating the agreement.

¹⁴ Cal. Admin. Code tit. 5, § 11969.8



**OAKLAND UNIFIED
SCHOOL DISTRICT**

Community Schools, Thriving Students

OFFICE OF CHARTER SCHOOLS

Sincerely,

Kelly Krag-Arnold
Director, Office of Charter Schools

Madison Thomas
Deputy Director, Office of Charter Schools



Proposition 39 Final Offer Exhibits

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

[Exhibit B](#) – Facilities Condition Data

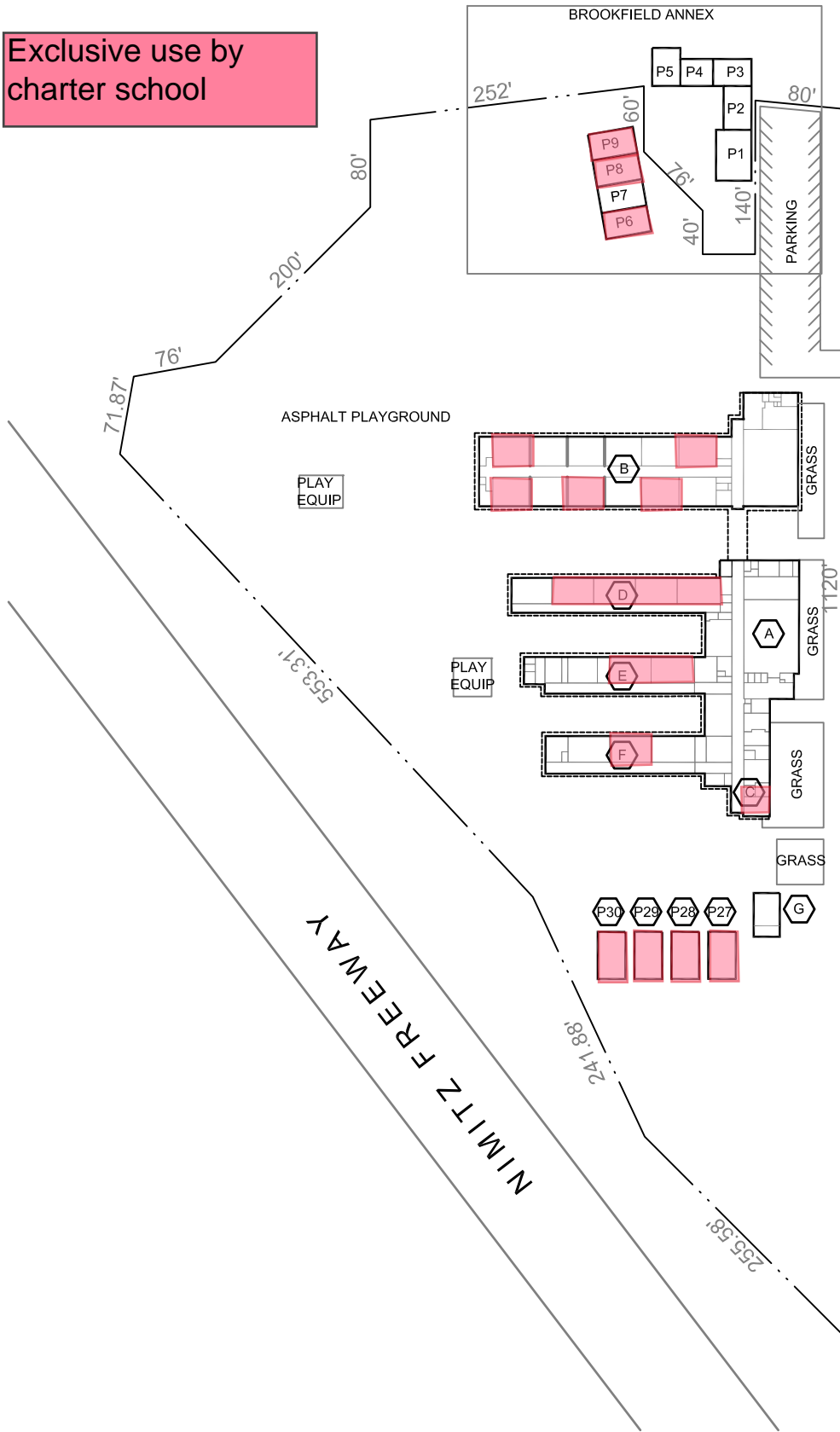
[Exhibit C](#) – Classroom and Specialized Classroom Space Inventory

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

Exhibit E – Fees and Payment Schedule [see below]

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

Exclusive use by
charter school



JONES AVENUE

ASHTON AVENUE

BERNHARDT DRIVE



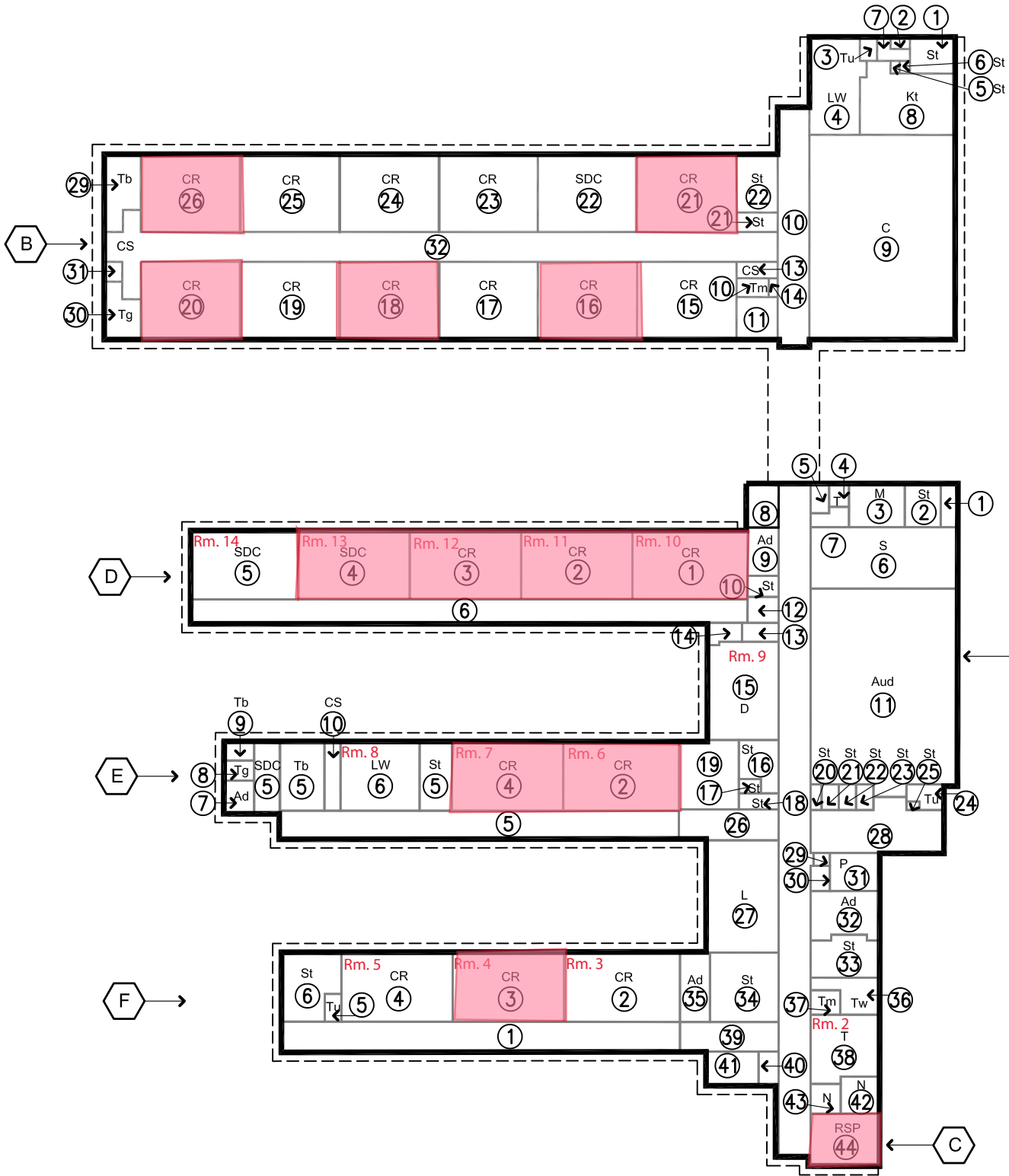
SITE PLAN

103 - BROOKFIELD ELEMENTARY SCHOOL
401 JONES AVENUE, OAKLAND, CA 94603-1123



Date: 1/18/2013

Scale: 1"=60'-0"



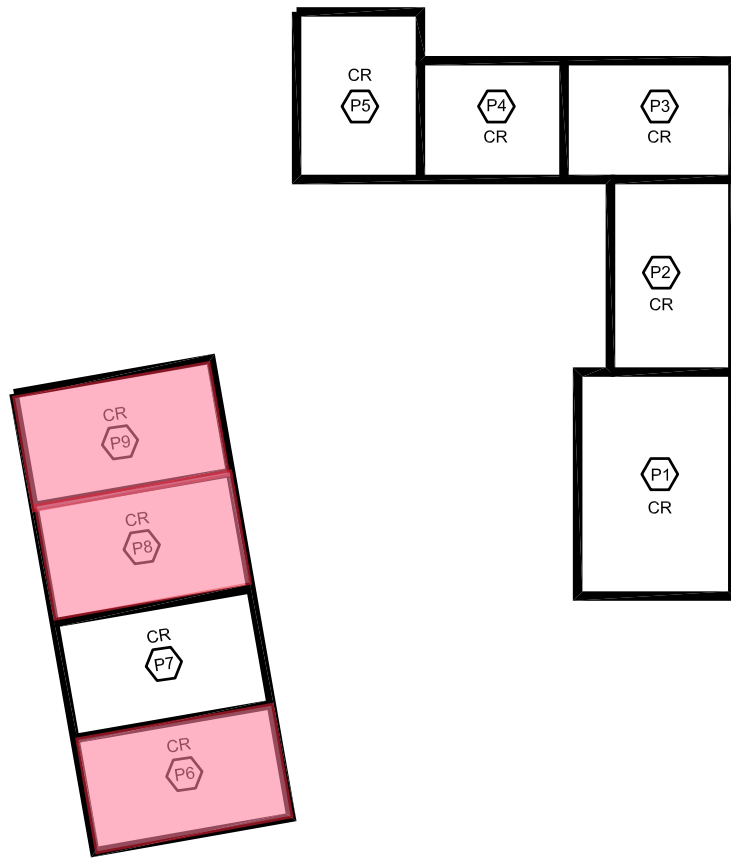
BLDG A-F - 1ST FLOOR PLAN

BLDG A, B, C, D, E, & F - 1ST FLOOR PLAN
103 - BROOKFIELD ELEMENTARY SCHOOL
 401 JONES AVENUE, OAKLAND, CA 94603-1123

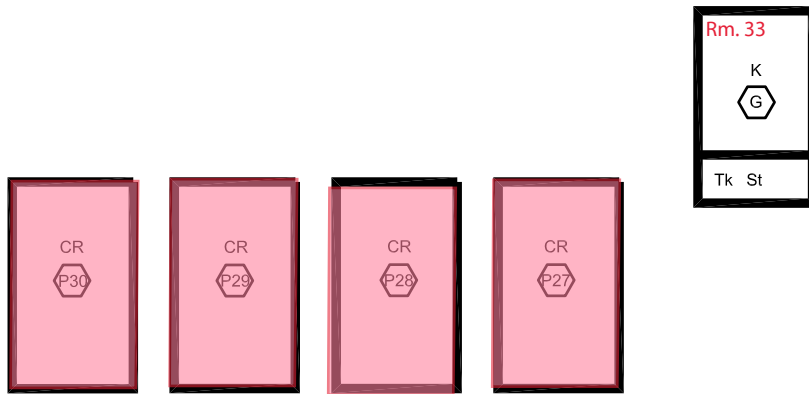


Date: 1/18/2013

Scale: 1"=50'-0"



BLDG PORT P1-9 - 1ST FLOOR PLAN



BLDG PORT G & P27-30 - 1ST FLOOR PLAN



BLDG PORT P1-P9, P27-P30 & G - 1ST FLOOR PLAN

103 - BROOKFIELD ELEMENTARY SCHOOL
 401 JONES AVENUE, OAKLAND, CA 94603-1123



Date: 1/18/2013

Scale: 1"=40'-0"

Exhibit E

Fee and Payment Schedule

Contract Term (Fiscal Year):	2023-24
Charter School Name:	Yu Ming
Campus Name:	Brookfield
Address:	401 Jones Ave
FACILITY USE FEE CALCULATION	
Classroom Space Allocation (sqft)	16,183
Specialized Classroom Space Allocation (sqft)	1,604
+ Non-Classroom Space Allocation (sqft)	26,993
Total Space Allocation at Site (sqft)*	44,780
x Facility Fee Sqft Rate (includes custodial and utilities)	\$9.53
Facility Use Fee	\$426,753.40
PAYMENT SCHEDULE	
25% by October 1, 2023 25% by December 1, 2023 25% by March 1, 2024 25% by June 1, 2024	

Note: All calculations subject to change. The Specialized Classroom and Non-Classroom Allocation square footage numbers above represent the Charter School's share of these spaces based on its entitlement and proportion of total ADA at the campus.

**Includes only interior space.*