



OFFICE OF CHARTER SCHOOLS

March 1, 2026

Charlie Noel
East Bay Innovation Academy
3400 Malcolm Ave.
Oakland, CA 94605

Charlie.noel@eastbayia.org

Re: Proposition 39 Facilities Request for 2026-27
Preliminary Offer of Facilities, 2026-27

Dear Charlie Noel,

The Oakland Unified School District (“OUSD” or “District”) makes this Preliminary Offer of Facilities to East Bay Innovation Academy (“Charter School”) for the 2026-2027 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 Schools.

A. 2026-27 PRELIMINARY OFFER TO THE CHARTER SCHOOL

The District’s allocation of space is based on a projected in-District Average Daily Attendance (“ADA”) of **237**. The Charter School did not request facilities for grades 9-12.

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

Bret Harte Middle School
3700 Coolidge Ave
Oakland, CA 94602

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.² 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 Castlemont/CCPA/Madison attendance area. Details about the determination of the Charter School’s high school attendance area can be found in Table 1 below.

Table 1: High School Attendance Area

High School Attendance Area	# of Students
CASTLEMONT/CCPA/MADISON	141
SKYLINE	44
OUTSIDE OF OAKLAND	42

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

² Cal. Admin. Code, title 5, § 11969.3



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FREMONT	19
OAKLAND TECH	10
MCCLYMONDS	10
OAKLAND HIGH	5

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.”³ Using the methodology in the regulations, the District determined that the comparison group schools for the Charter School are as follows:

- Greenleaf TK-8
- Frick Impact Academy/Oakland School of Language
- Elmhurst United
- Coliseum College Prep Academy
- Madison Park Academy 6-12

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.⁴

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)

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 in 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 19.69 per classroom for grades 6-8, as demonstrated in the table below.

³ Cal. Admin. Code tit. 5, § 11969.3(a)(2)

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



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Table 2: Classroom Entitlement Calculation for Grades 6-8

Comparison School(s) Serving Gr. 6-8						
High School Attendance Area: CASTLEMONT/CCPA/MADISON						
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 ⁵	F. Number of Classrooms Provided to K-12 Students (C-D-E)	G. ADA per Classroom (B/F)
Greenleaf TK-8	586.23	30	0	0	30	19.54
Frick United Academy of Language	289.98	18	0	2	16	18.12
Elmhurst United MS	623.04	35	0	4	31	20.10
Coliseum College Prep Academy	812.40	33	0	2	31	26.21
Madison Park Academy 6-12	478.12	35	0	2	33	14.49
H. District Comparison School Average ADA per Classroom: (Average of Column G)						19.69
I. Charter School's Projected Gr. 6-8 ADA:			237			
Number of Gr. 6-8 classrooms charter is entitled to: (Row I / Row H)			12.0			

The Charter School is entitled to an allocation of **12.0 classrooms**.

C1b. Classroom Allocation

The Charter School's allocation of exclusive-use classrooms is summarized in Table 3 and Table 4 below. The location of the exclusive-use classrooms offered to the Charter School in this Preliminary Offer is depicted in the diagrams attached as Exhibit A. This Preliminary Offer is based on preliminary District enrollment, and corresponding ADA projections. As such, the exclusive-use space to which the Charter School is entitled, including the number of allocated classrooms, may change slightly in the Final Offer that will be based on the District's final enrollment and ADA projections.

Table 3: Exclusive-Use Classroom (Non-Specialized) Allocation Summary

School Site	Total Classrooms
Bret Harte	12

Table 4: Exclusive-Use Classroom Allocation

School Site	Room # (See location on Exhibit A)
Bret Harte	300
Bret Harte	301
Bret Harte	302
Bret Harte	303

⁵ SDC=Special Day Classroom.



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Bret Harte	304
Bret Harte	305
Bret Harte	306
Bret Harte	307
Bret Harte	308
Bret Harte	309
Bret Harte	225
Bret Harte	227

C2. Capacity – Specialized Classroom Space

The Proposition 39 regulations⁶ 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.

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 below.

Table 5: SCS Entitlement Calculation for Grades 6-8

Comparison School(s) Serving Gr. 6-8							
High School Attendance Area: CASTLEMONT/CCPA/MADISON							
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)
Greenleaf TK-8	586.23	0	0.00	0	0.00	0	0.00
Frick United Academy of Language	289.98	3,042	10.49	6,957	23.99	1,317	4.54
Elmhurst United MS	623.04	1,651	2.65	2,578	4.14	0	0.00
Coliseum College Prep Academy	812.40	1,973	2.43	8,628	10.62	1,783	2.19
Madison Park Academy 6-12	478.12	3,924	8.21	5,465	11.43	0	0.00
A. District Comparison School Average Sq Ft/ADA:		4.76		10.04		1.35	
B. Charter School's Projected Gr.6-8 ADA:		237.00		237.00		237.00	
Gr. 6-8 specialized classroom space (sq ft) charter is entitled to: (Row A x Row B)		1,127		2,379		319	

⁶ Cal. Admin. Code title 5, § 11969.3(b)(2)



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The Charter School is entitled to access to approximately 1,127 sq ft of Arts SCS, 2,379 sq ft of Science Lab SCS, and 319 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 6 below. The Charter School's SCS allocations are also summarized below. The co-located schools at the Bret Harte campus will develop a shared access schedule for the available shared SCS based on each school's ADA. Detailed data related to the specific SCS present at District sites is provided in Exhibit C.

Table 6: Specialized Classroom Space (SCS) Existing at Offer Site

School Site	Space Type	Arts SCS (sq ft)	Science Lab SCS (sq ft)	Tech SCS (sq ft)	Total SCS (sq ft)
Bret Harte	Existing at Site	2,013	8,070	816	10,899
	Shared Use Allocation	962	3,855	390	5,206

**Calculated as Total Site SCS x EBIA's Proportion of Site In-District ADA. EBIA's Proportion of Total Site In-District ADA at Bret Harte is calculated as 237 / (237 + 259.10) = 47.77%.*

The District calculates the sq ft/ADA for specialized-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 is commensurate with the average of the sq ft/ADA ratios at the comparison group schools. The District is entitled to weigh and offset a numerical discrepancy under "capacity" as part of the reasonable equivalence analysis, and counter that discrepancy with other components of the facilities offer. (*Bullis Charter School v. Los Altos School Dist.* (2011) 200 Cal.App.4th 1022.)

C3. Capacity – Non-Classroom Space

C3a. Non-Classroom Space Entitlement

As shown in the table 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.⁷ A table showing the calculation of non-classroom space at District sites is included in Exhibit C.

Table 7: Non-Classroom Space (NCS) Sq ft/ADA Entitlement for Grades 6-8

Comparison School(s) Serving Gr. 6-8															
High School Attendance Area: CASTLEMONT/CCPA/MADISON															
Comparison School Name	Projected ADA (incl. SDC)	Assembly		Dining		Athletic		Library		Operatio nal		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)
Greenleaf TK-8	586.23	5,340	9.11	0	0.00	0	0.00	1,361	2.32	16,498	28.14	4,506	7.69	86,570	147.67

⁷ Cal. Admin. Code title 5, § 11969.3(b)(3).



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Frick United Academy of Language	308.49	13,407	43.46	0	0.00	4,975	16.13	2,147	6.96	26,517	85.96	8,832	28.63	214,429	695.09
Elmhurst United MS	649.74	9,784	15.06	2,368	3.64	10,800	16.62	1,680	2.59	28,011	43.11	14,641	22.53	326,953	503.21
Coliseum College Prep Academy	828.70	5,353	6.46	3,360	4.05	10,861	13.11	1,523	1.84	31,199	37.65	7,751	9.35	164,027	197.93
Madison Park Academy 6-12	487.48	4,946	10.15	0	0.00	10,783	22.12	1,971	4.04	30,945	63.48	11,650	23.90	536,786	1,101.14
A. District Comparison School Average Sq Ft/ADA:		16.85		1.54		13.59		3.55		51.67		18.42		529.01	
B. Charter School's Projected Gr. 6-8 ADA:		237		237		237		237		237		237		237	
Gr. 6-8 non-classroom space (sq ft) charter is entitled to: (Row A x Row B)		3,993		365		3,222		841		12,245		4,366		125,375	

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.

C3b. Non-Classroom Space Allocation

The table below summarizes the Charter School's Non-Classroom Space (NCS) that they currently occupy and are also allocated in this offer, compared to the NCS that exists on the Bret Harte Campus.

Table 8: 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)
Bret Harte	237	Existing at Site	11,325	-	7,526	2,457	38,030	9,512	218,026
		Shared Use Allocation*	5,410	-	3,595	1,174	18,167	4,544	104,151

*Calculated as Total Site NCS x EBIA's Proportion of Site In-District ADA. EBIA's Proportion of Total Site In-District ADA at Bret Harte is calculated as $237 / (237 + 259.10) = 47.77\%$.

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 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 District is entitled to weigh and offset a numerical discrepancy under "capacity" as part of the reasonable equivalence analysis, and counter that discrepancy with other components of the facilities offer. (*Bullis Charter School v. Los Altos School Dist.* (2011) 200 Cal.App.4th 1022.)

Upon request, the District also will offer the Charter School reasonably equivalent furnishings and equipment for 237 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 9: Facility Characteristics to Determine Reasonable Equivalence of Condition



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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)

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 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 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 is similar to the comparison school group on site size (measured by both acreage and square feet/ADA), 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 10: School Site Condition Analysis, Comparison Sites vs Offer Site



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School Name	School Site Size (acreage)	School Site Size (Sq ft / ADA)	Facilities Condition Index*	Educational Adequacy Score**
Greenleaf TK-8	2.67	198.40	39%	N/A ⁸
Frick United Academy of Language	6.31	947.87	52%	50.42
Elmhurst United MS	9.27	648.11	50%	47.97
Coliseum College Prep Academy	6.06	324.93	57%	54.75
Madison Park Academy 6-12	14.36	1308.29	29%	53.84
Comparison School Average	7.73	685.52	45%	51.75
Offer Site: Bret Harte	6.40	561.95 ⁹	53%	52.31

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

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

D. DIFFERENCES BETWEEN FACILITIES REQUEST AND PRELIMINARY OFFER

The District identifies any differences between this Preliminary Offer and the Charter School's Request for Facilities:¹⁰

Site Location: The Charter School stated "77% of EBIA Lower School's Oakland residents and 65% of the overall Lower School population reside in the Zip Codes 94605, 26% reside in 94603, 8% live in 94619 and an additional 6% live in 94601. All of which are clustered around the 94605 zip code where the current Thurgood Marshall campus." The District provided the Charter School a Preliminary Offer at Bret Harte Middle School, which is located approximately 6.3 miles from the Thurgood Marshall campus. While Bret Harte is not located in the provided list of zip codes, it is in the 94602 zip code, which neighbors the 94601 and 94619 zip codes. 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 also balanced granting the Charter School's location preference in considering the allocation of classroom space, specialized teaching space, and non-teaching space under the reasonable equivalence standard.

E. PRELIMINARY 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. Overalllocation Fee

⁸ The Jacobs study did not provide data for the Educational Adequacy Score of this campus.

⁹ Figure calculated using the projected ADA for both the offer site and the Charter School.

¹⁰ Per Cal. Admin. Code, title 5, §11969.9(f)



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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 overallocated¹¹ 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 has until March 1, 2026 to deliver a response to this letter to charteroffice@ousd.org. Please do not mail or hand deliver a response to this letter.

A Final Offer of Facilities will be provided to the Charter School by April 1, 2026. 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 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.

Sincerely,

Tim Morris
Policy Specialist, Office of Charter Schools

Kristy Lu
Analytics Specialist, Office of Charter Schools

¹¹ Per Cal. Admin. Code, title 5, §11969.9(h)

¹² Cal. Admin. Code tit. 5, § 11969.8



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

Exhibit A

COOLIDGE AVE
479.00'

HOPKINS ST PLACE

MAC ARTHUR BLVD
166.68'

FLORIDE STREET
44.74'

HILLVIEW STREET

Exclusive use by charter school

Dimensions:
 103.53'
 104.60'
 105.12'
 248.47'
 199.54'
 468.75'
 154.30'
 134.25'
 160.65'
 172.17'
 202.04'

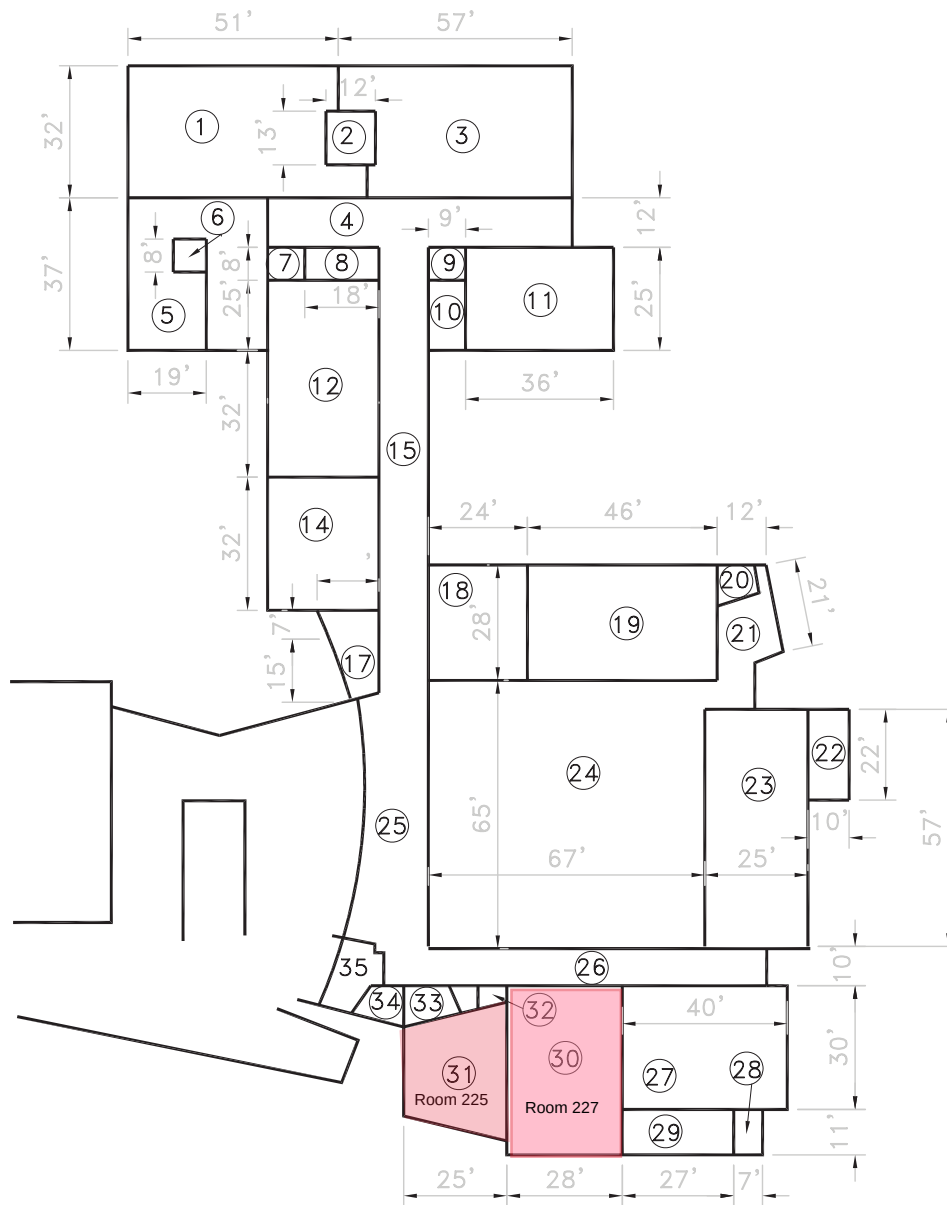
Room Numbers:
 Room 300
 Room 301
 Room 302
 Room 303
 Room 304
 Room 305
 Room 306
 Room 307
 Room 308
 Room 309

Labels:
 A, A1, A2
 B1, B2
 C1, C2
 D, E, F, G, H, I, J, K

Not drawn to scale



OAKLAND UNIFIED
SCHOOL DISTRICT



Not drawn to scale



206 - Bret Harte Middle School - Unit A1

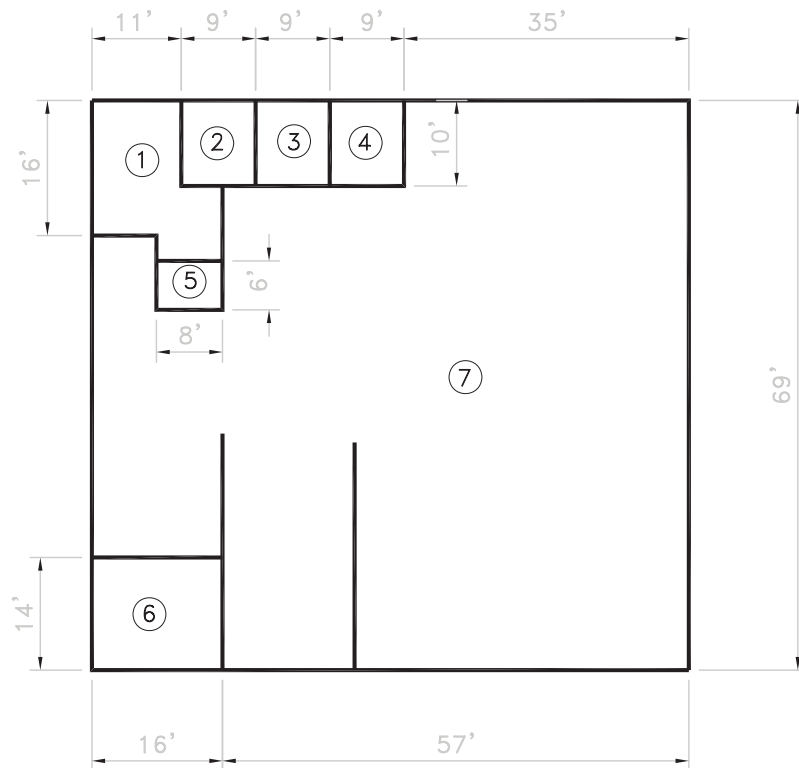
3700 Coolidge Avenue - Oakland, CA 94602-3309

MKTHINK

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

2011



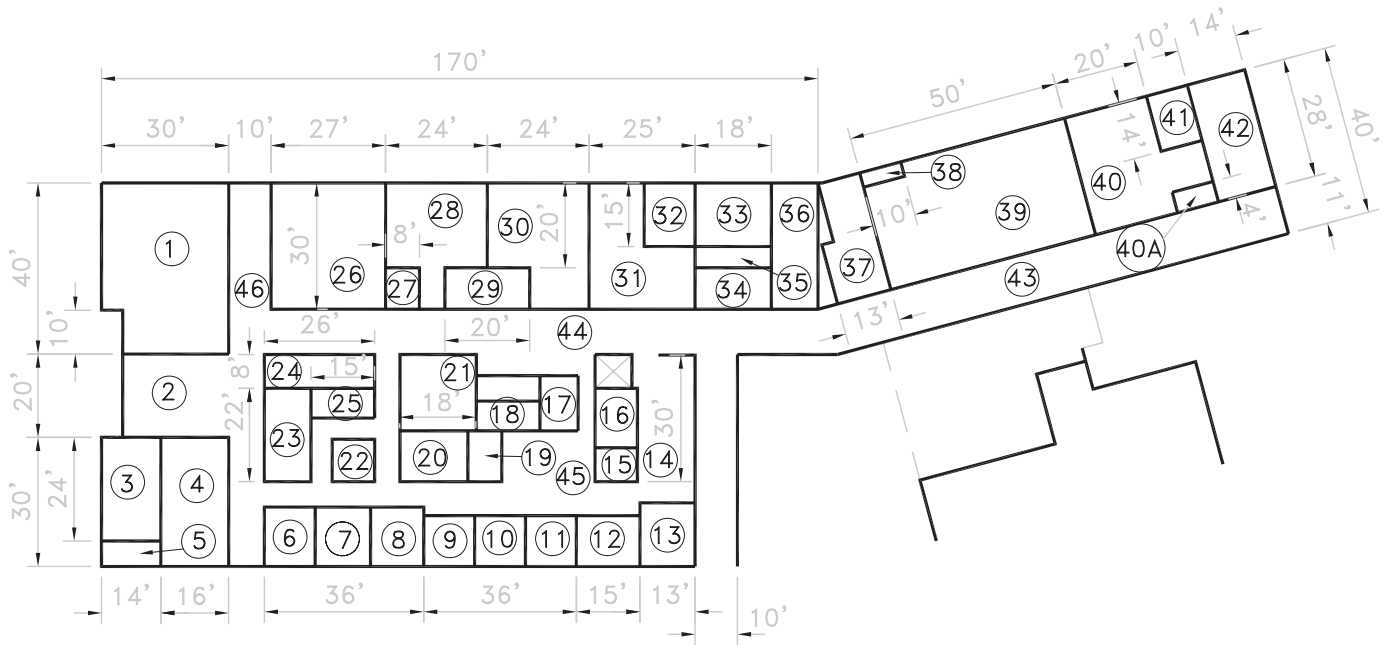


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206 - Bret Harte Middle School - Unit A2

3700 Coolidge Avenue - Oakland, CA 94602-3309



Not drawn to scale



206 - Bret Harte Middle School - Unit B1

3700 Coolidge Avenue - Oakland, CA 94602-3309

MKTHINK

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

2011





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206 - Bret Harte Middle School - Unit B2

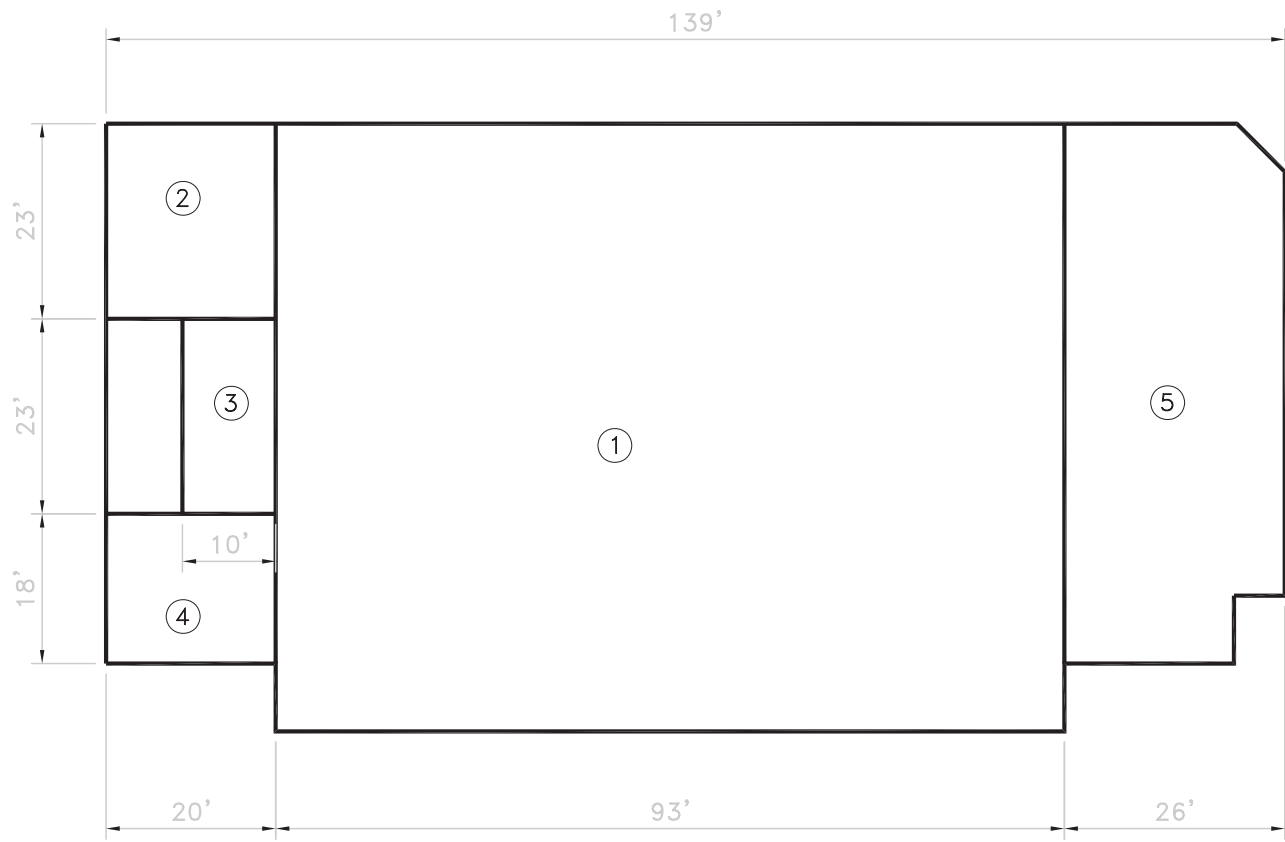
3700 Coolidge Avenue - Oakland, CA 94602-3309

MKTHINK

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

2011



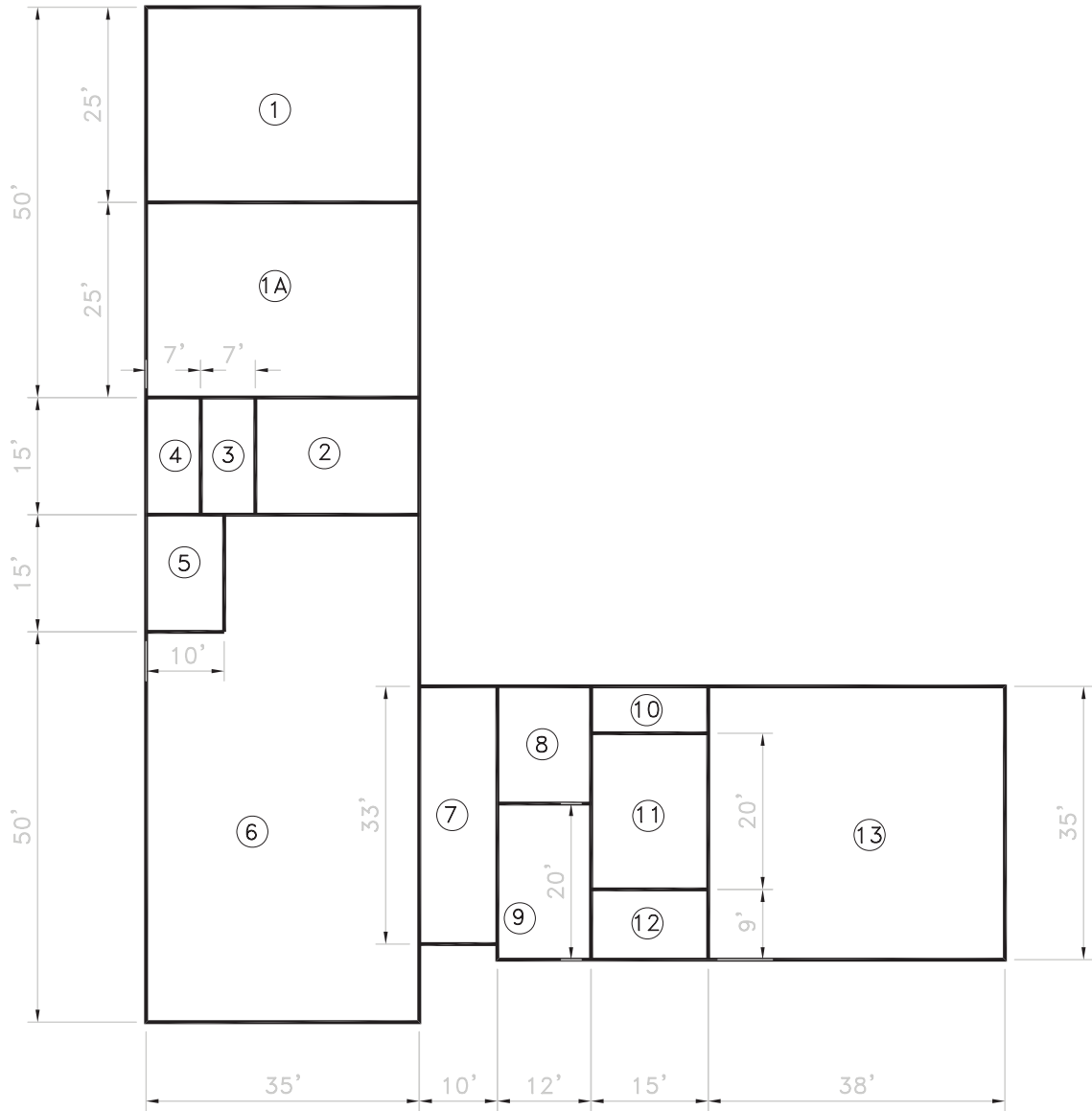


Not drawn to scale



206 - Bret Harte Middle School - Unit C2

3700 Coolidge Avenue - Oakland, CA 94602-3309



Not drawn to scale



206 - Bret Harte Middle School - Unit D

3700 Coolidge Avenue - Oakland, CA 94602-3309

Exhibit E

Fee and Payment Schedule	
Contract Term (Fiscal Year):	2026-27
Charter School Name:	EBIA
Campus Name:	Bret Harte
Address:	3700 Coolidge Ave
FACILITY USE FEE CALCULATION	
Classroom Space Allocation (sqft)	12455
Specialized Classroom Space Allocation (sqft)	5,206
Non-Classroom Space Allocation (sqft)	32,890
Total Space Allocation at Site (sqft)*	50551
x Facility Fee Sqft Rate (includes custodial and utilities)	\$13.74
Facility Use Fee	\$694,570.74
PAYMENT SCHEDULE	
25% by October 1, 2026 25% by December 1, 2026 25% by March 1, 2027 25% by June 1, 2027	
<i>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.</i>	
<i>*Includes only interior space.</i>	