



## Charter Facilities: A How-To Guide

(non-Prop 39)

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# TOPICS WE WILL COVER

- Charter School Landscape
- Laying the Foundation for Facilities Projects
- Common Characteristics of Successful Projects
- Legal Restrictions on School Site Development and Use
- Basic Steps in Due Diligence
- Applicability of Building Codes
- Options for Addressing Zoning Requirements
- Issues to Address/Negotiate in Lease or Acquisition
- CCSA's Legislative Zoning Efforts



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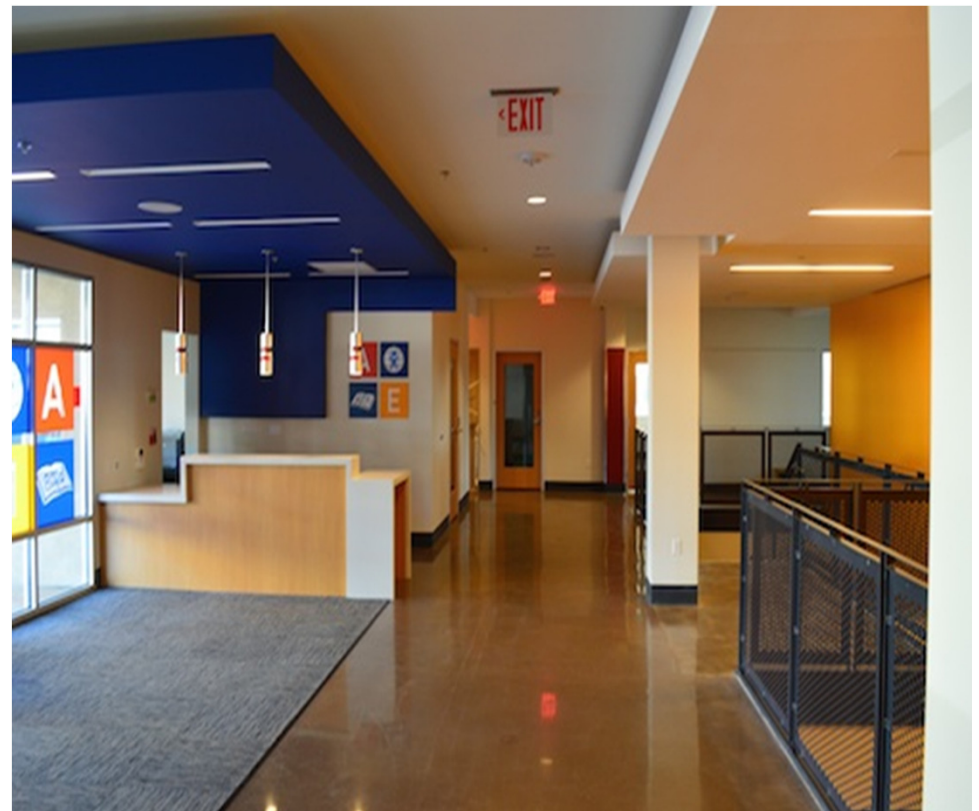
# Charter School Growth Demand

- More than 158,000 students on charter waitlists statewide
- 85% plan to increase their enrollment over the next five years
- The average school plans to increase their enrollment 56% over the next five years
- 64% of schools that plan to grow don't have the space for their desired enrollment in five years

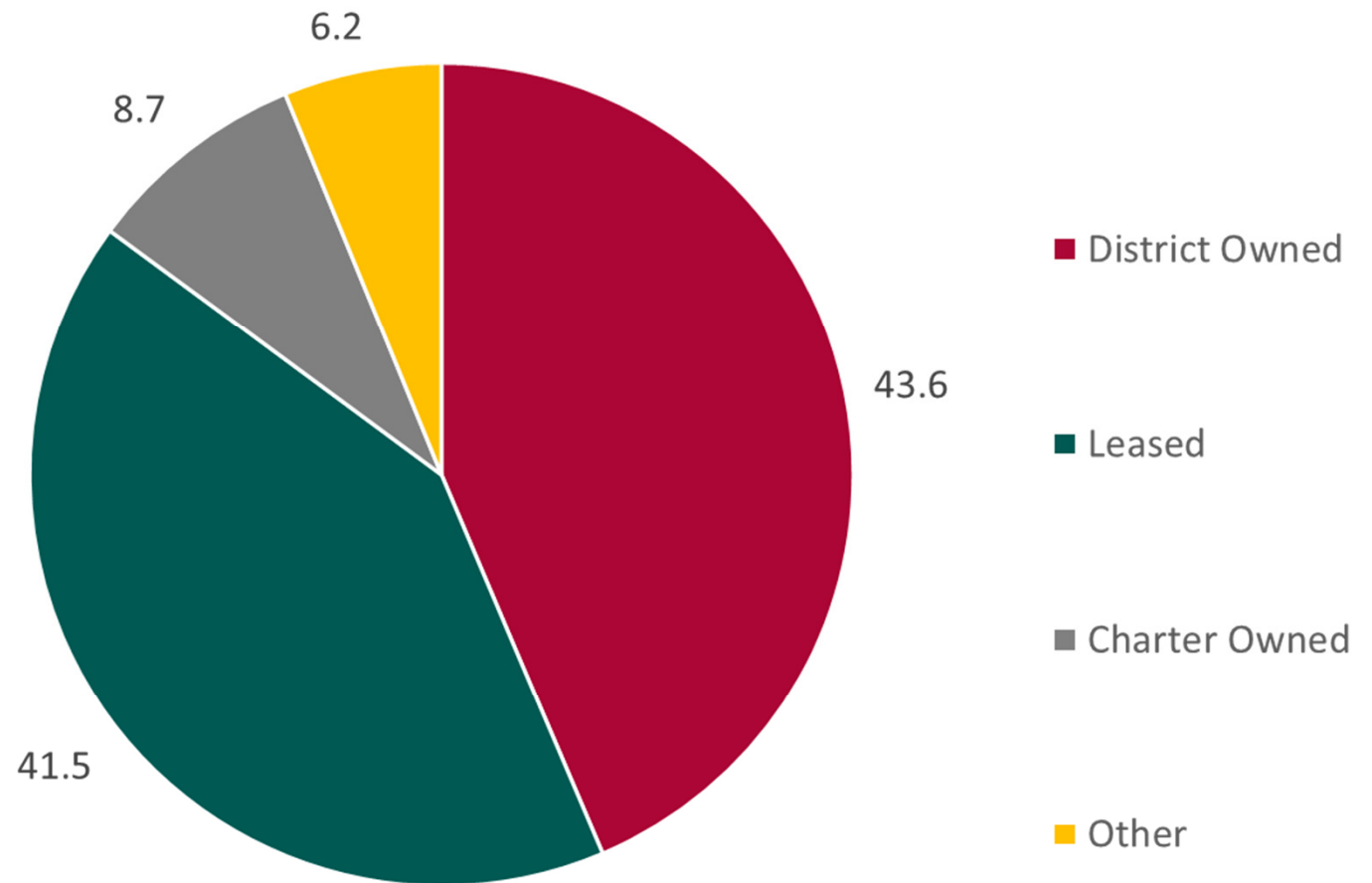
# Questions to Consider

- For new schools and the 85% of existing schools that are interested in expanding, how do they go about finding facilities solutions?
- What are the preliminary steps needed to build the foundation for a successful facilities project?
- What are the common characteristics of successful facilities projects?

Source: Charter School Facilities Initiative, 2014



# Charter School Facilities Ownership %



# Preliminary Steps—Needs Assessment

- Enrollment ÷ Loading Factor = core classrooms needed
- Core Classrooms needed x 700 (for ES, MS) or 800 (for HS) square feet = total classroom square feet
- Total classroom square feet + additional required space (office space, library, gymnasium or multipurpose room, specialty classrooms) = total square feet
- Total square feet + 25% for circulation and support areas = total square footage required

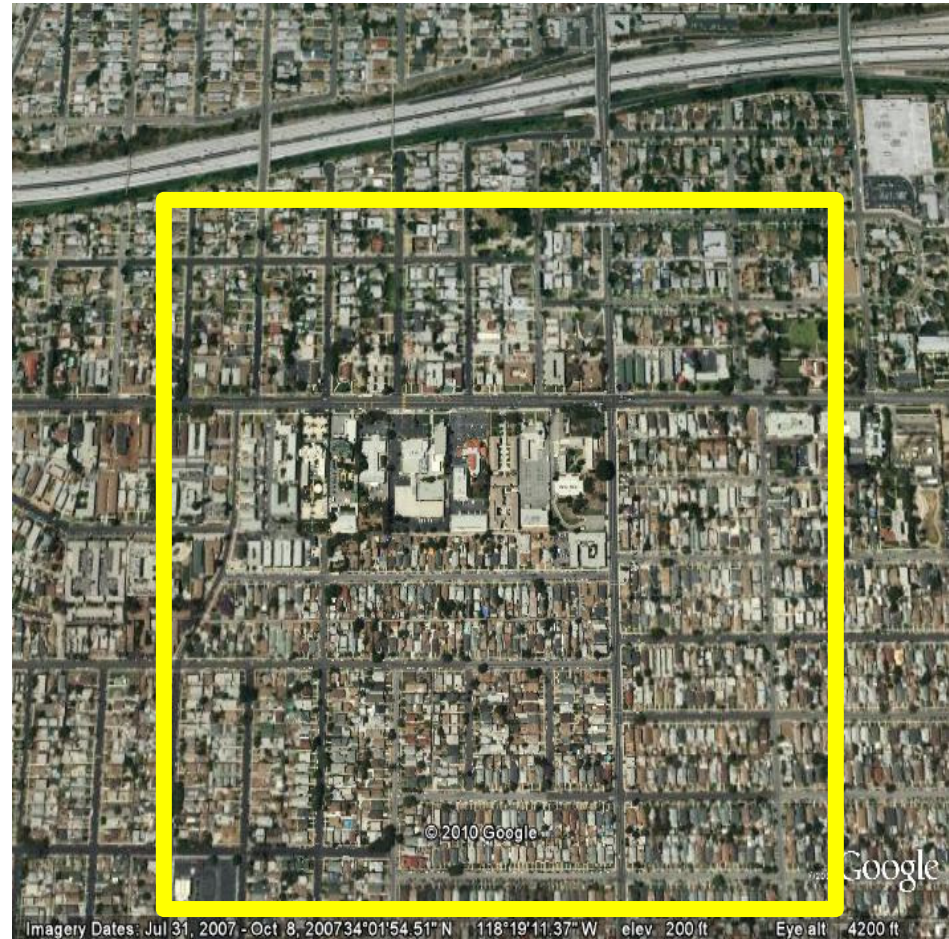
Enrollment	<b>400</b>
Loading Factor	25:1
Core Classrooms Needed	16
Square Footage of Classrooms	800
Total Classroom Square Footage	12,800
Office Space Square Footage	1000
Additional Specialty Classrooms (2)	1600
Multipurpose Room	1000
Subtotal	16,400
25% additional for circulation and support areas	4100
<b>Total</b>	<b>20,500</b>

# Cost Projections

- A charter school can typically afford to pay up to \$1,100-\$1,400 per student per year for facility debt service and/or lease costs. For a 500 seat school, this translates to about \$550,000 per year, or \$45,833 per month ( $\$1,100 \times 500 = \$550,000$ ).
- Another rule of thumb is that charters should plan to spend no more than 10-12% of their annual budget on facilities costs.
- When purchasing and/or developing a school site, charters can afford to pay a maximum of \$20,000 per seat inclusive of all project costs. For example, a 500 seat school should not cost more than \$10 million.

# Location, Location, Location

- Determine what community the school will serve and where charter school facility will ideally be located
- Establish clear north, south, east, and west boundaries.
  - For example: 10 Freeway on the North, Jefferson Ave. on the South, Crenshaw Blvd. on the West, Western Ave. on the East
- Use a map to highlight desired area
- Additional criteria desired: near a park, away from freeways



# Characteristics of Success



- Advance Planning
- Cash Reserves
- Strong Team
- Risk Tolerance
- Patience
- Determination

# FACILITIES LIFECYCLE

## Major Stages of Charter School Facilities Development:

- Short-term - Start Up
- Mid-term – Growing to Scale
- Long-term - Sustainability



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# EXAMPLES

- Co-locate with Church, YMCA, Boys Club
- Rent Compliant Facility w/ Minimal TI's
- Convert Commercial or Retail Space
- Portables on an Empty Lot
- Develop Property with a Partner
- Development Deal with a District



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# NEED TO THINK ABOUT SUITABILITY OF PLACE AND SPACE

## Right space for your school?

- Sufficient Space – Now and Future
- Amenities
- Affordability

## Right place for your school?

Zoning

Use Permit (CUP)

“E” Occupancy



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It this the right **place** for my  
charter school?



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# ZONING COMPLIANCE?

- Cities and counties don't plan for schools
- School districts may adopt resolutions exempting school sites from zoning compliance (Gov. Code section 53091 et seq.)
- Districts may adopt zoning exemption on behalf of charter school, but only within district's boundaries (Gov. Code 53097.3)
- Consequently, charter schools almost always seek conditional use permits (CUP) to meet local zoning requirements



# GETTING A CONDITIONAL USE PERMIT

- Conditional use permit is a form of “contract” zoning:
  - Like a zone change, grant of a CUP is **discretionary**
  - “General welfare” standard gives lots of latitude to condition approval
  - Conditions are limited to things within your control, and related to your use, or they are invalid
- Process requires:
  - Notice to neighbors who may be affected
  - Environmental review under CEQA
  - Public hearing(s)
  - Right of appeal from planning commission



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# GETTING A CONDITIONAL USE PERMIT

- CUP process requires time:
  - City may require traffic and other studies to be submitted with application
  - Political process means neighborhood support is key
  - City staff will often require additional information and resubmittals
- Process requires money, too:
  - Architect / project consultants are likely needed
  - City will take deposit against its work
- City staff may be helpful if consulted prior to permit application, especially in smaller cities



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# LEGAL RESTRICTIONS ON CHARTER SCHOOL SITE SELECTION

- Asbestos screening
  - Federal law requires screening and remediation (15 USC section 2643; 40 CFR sec. 763)
  - State law requires owner to disclose asbestos in premises (Health & Safety Code sec.25915 et seq.)
- Lead exposure
  - Federal law requires schools to be reviewed for sources of lead exposure; State forbids use of lead in school construction (Ed. Code section 32245)
- Be especially cautious with pre-1980 structures  
(Include in Phase I Environmental Review)



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# OTHER CHARTER SITE LOCATION LIMITS?

- AB 1358 limits charter schools within 2 miles of airport without DOT approval
- Charter school law prescribes geographical limits
  - Typically within district, county or surrounding counties
  - Some schools have waivers or statutory exemptions



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## **MANY SCHOOL DISTRICT SITE LOCATION RESTRICTIONS ARE INAPPLICABLE TO CHARTERS, INCLUDING:**

- Freeway proximity
- Power lines
- High pressure gas lines under site
- Air pollution emitters
- Proximity to bars, alcohol sales
- Seismic safety
- Historical agricultural use of site
- Environmental hazards (e.g., methane)



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It this the right **space** for my  
charter school?



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# BUILDING CODE COMPLIANCE?

- School districts are exempt from local building code enforcement (limited Fire Code jurisdiction)
- Federal facilities exempt from local building codes
- Charter schools *are subject* to building code enforcement (Education Code sec. 47610)
  - Need “occupancy” for educational or “E”



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# BUILDING CODE COMPLIANCE?

- Most common impediments to meeting code for classroom use:
  - Restrooms / fixtures
  - Hallway widths
  - Sprinklers (fire)
  - ADA requirements (e.g., elevators)
  - Electrical systems
- ***Remodeling will require updating entire facility to current code***



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# BUILDING CODE COMPLIANCE?

- Your architect, consultant or contractor should look at space early
  - Describe your use clearly—it matters!
  - Get a report and estimate for corrections
  - Use in valuing or negotiating price for facility



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# ENVIRONMENTAL REVIEW (CEQA)

- Common school site issues:
  - Traffic safety, parking and potential liability
  - Neighborhood compatibility
  - Offsite drainage and onsite grading
  - Sewer or septic systems



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# OPTIONS FOR CONTRACTING FOR CONSTRUCTION

- Competitive bidding generally not required, but design-bid-build common
- Construction management
- Design-build fixed price
  - Growing charter-specific industry developing
- Time and materials



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# FUNDING SOURCES AFFECT LEGAL RESTRICTIONS THAT APPLY TO YOUR PROJECT

- School district rules probably apply if you are:
  - Using district facilities or land
  - Using district or state bond funds
  - Getting State bond funds through SAB
- Most “school district” rules do ***not*** apply if you:
  - Obtain all funds from charter school operations
  - Use a mix of charter school and private funds
- Even totally private funding and development will have some special “public school” restrictions



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# PREVAILING WAGE LAWS?

- Apply to “public works” as defined in Labor Code section 1720 et seq., which is triggered by use of certain public funds
  - Requires contractor to pay “prevailing wages rates” set by the State (usually higher than local wages) and comply with certain record keeping and other requirements
  - If public agency contracts for improvements, prevailing wage laws apply
  - If any public funds are used (other than ADA funding), prevailing wage laws may apply



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# REAL ESTATE / DESIGN PROFESSIONALS

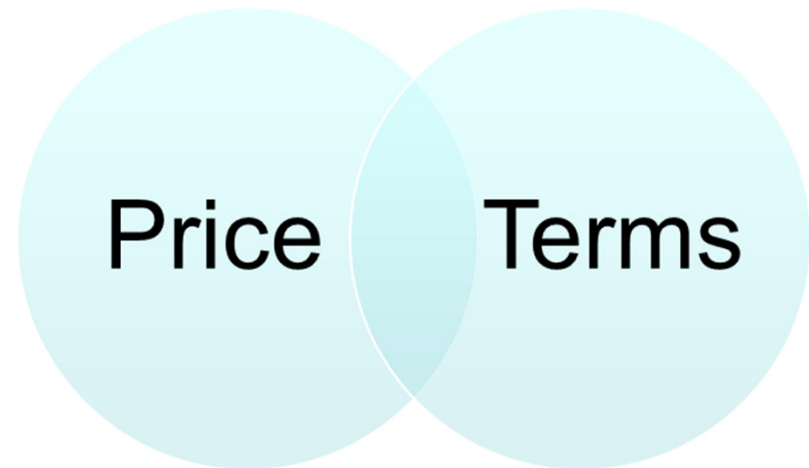
- Brokers and Agents
- Architects and Engineers
- Contractors and Project Managers
- Developers
- Attorneys



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# NEGOTIATION POINTS

- Tenant Improvements
- Scaled Payments
- Length of Lease
- Termination Clause
- “NNN” vs. Gross
- Don’t Sign without Good Legal Review



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**Thanks for attending!**

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