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[Fee exempt Pursuant to  
Govt. Code § 6103]

7 Attorneys for Defendants, POWAY UNIFIED SCHOOL  
DISTRICT, POWAY DISTRICT BOARD OF EDUCATION; and  
8 MARIAN KIM PHELPS, in her capacity as Superintendent

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
10 **COUNTY OF SAN DIEGO - CENTRAL**

12 PROTECT OUR COMMUNITY NOW, a  
California nonprofit public benefit  
13 corporation,

14 Petitioner and Plaintiff,

15 v.

16 POWAY UNIFIED SCHOOL DISTRICT, a  
California public school district; POWAY  
17 DISTRICT BOARD OF EDUCATION; and  
MARIAN KIM PHELPS, in her capacity as  
18 Superintendent,

19 Respondents and  
20 Defendants.

21 COSTCO WHOLESALE CORPORATION, a  
Washington profit corporation,

22 Real Party-in-Interest.  
23

**Case No. 37-2020-00037296-CU-WM-CTL**  
Civil-Unlimited Jurisdiction

**DECLARATION OF STEPHEN  
MCLOUGHLIN IN SUPPORT OF  
RESPONDENT'S OPPOSITION TO  
VERIFIED PETITION FOR WRIT OF  
MANDATE AND COMPLAINT**

**(RELATED TO ROA#1)**

Judge: Hon. Eddie C. Sturgeon  
Dept. C-67  
Complaint Filed: October 15, 2020  
24 Trial Date: NONE

25 I, Stephen M. McLoughlin, declare as follows:

26 1. I am an attorney duly admitted to practice law before all courts in the State of  
27 California and an associate at the law firm Atkinson, Andelson, Loya, Ruud & Romo, counsel of  
28 record for Poway Unified School District ("District") in the above-referenced matter.

1           2.       I have personal knowledge of the facts stated in this declaration. If called upon to  
2 testify regarding the facts stated herein, I would and could competently do so. I submit this  
3 declaration in support of the Opposition To Verified Petition for Writ of Mandate and Complaint  
4 filed by Poway Unified School District; Poway District Board Of Education; and Marian Kim  
5 Phelps, Superintendent, (hereinafter collectively, the “District”).

6           3.       The District currently maintains a website that includes information and documents  
7 related to the subject Property (the “Property Website”). The Property Website can be found at  
8 <https://www.powayusd.com/en-US/Departments/Business-Support/Planning/RPAC>.

9           4.       On February 28, 2012, the District’s Board of Education (“Board”) established and  
10 appointed a Real Property Advisory Committee (“RPAC”). On May 21, 2012, the RPAC  
11 provided a Report to the Board discussing its actions and recommendations (“RPAC Board”). The  
12 RPAC Report recommended the District declare the Property surplus and pursue a sale or lease. A  
13 true and correct copy of the Report, which is also on the Property Website, is attached hereto as  
14 Exhibit “A.”

15           5.       As set forth in the RPAC Report, the RPAC conducted seven (7) publically noticed  
16 meetings during which the community was given the opportunity to discuss the Property.

17           6.       The Board accepted and approved the RPAC Report during its May 21, 2012  
18 public session Board meeting. A copy of the meeting minutes from this Board meeting  
19 confirming acceptance is attached hereto as Exhibit “B.”

20           7.       Following a June 27, 2019, open session Board meeting and public hearing, the  
21 Board approved District seeking of the SBE waiver, and then on August 8, 2019, District staff  
22 presented a summary of the District’s options with respect to the Property’s potential sale, lease or  
23 exchange to the Board and the public during a public Board meeting. A true and correct copy of  
24 the presentation slides, which are also on the Property Website, is attached hereto as Exhibit “C.”

25           8.       On November 6, 2019, confirmed in the Petitioner’s Writ Petition (“Writ”), the  
26 District received a waiver from the State Board of Education (SBE) allowing the District to use a  
27 Request for Proposal (RFP) process to pursue potentially selling or leasing the property that is the  
28 subject of this matter. The SBE Waiver lists the Education Code sections that are “waived” for

1 the District’s RFP process, including Education Code sections 17472 and 17466. Attached hereto  
2 as Exhibit “D” are the documents demonstrating the SBE Waiver, including the agenda item  
3 describing the Writ and the SBE Board meeting minutes approving the Waiver agenda item.

4 9. On November 14, 2019, the District held another public presentation during a  
5 public Board meeting to discuss the Property, the SBE Waiver, and the RFP process. A true and  
6 correct copy of the presentation slides, which are also on the Property Website, is attached hereto  
7 as Exhibit “E.”

8 10. On November 19, 2019, the District circulated a Request for Proposals (RFP) as  
9 authorized by the SBE Waiver. The RFP informs proposers that any development may be subject  
10 to “Proposition A” described as follows: “Proposition A is a voter-approved proposition that  
11 passed in 1985 any requires any change to the City’s General Plan to be approved through a  
12 majority vote of the people voting at a City-wide election.” A true and correct copy of the RFP is  
13 attached hereto as Exhibit “F.”

14 11. On January 20, 2020, the District conducted a “Santaluz Town Hall Meeting”  
15 during which District staff discussed the Property and the District’s RFP process. A true and  
16 correct copy of the slides presented during this meeting regarding the Property is attached hereto  
17 as Exhibit “G.”

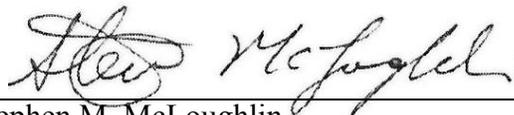
18 12. On August 13, 2020, the District approved the revised letter of intent submitted by  
19 Costco (the “Costco Revised LOI”) and announced its approval in open session. A true and  
20 correct copy of the District’s agenda item is attached as Exhibit “H” and the Costco Revised LOI  
21 as Exhibit “I.”

22 13. On September 10, 2020, the District Board held an open session meeting in which  
23 it reviewed and discussed the proposals submitted in response to the RFP and deemed Costco’s  
24 proposal the most beneficial. The Board also delegated authority to the Superintendent to  
25 “negotiate an Option Agreement and Ground Lease between the District and the most desirable  
26 proposer, and present such documents to the Board at a later date.” A copy of the slides presented  
27 during the meeting are attached as Exhibit “J” and the Board item deeming Costco’s proposal the  
28 most beneficial is attached as Exhibit “K.”

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14. On November 4, 2020, the District held an approximately two (2) hour, publically announced community meeting in which District staff discussed the Property, the RFP process, Costco’s proposal, and allowed for, and addressed, public comments and questions. A true and correct copy of the presentation used at this meeting is attached as Exhibit “L.”

Dated: November 12, 2020



Stephen M. McLoughlin  
Attorney for Respondents POWAY UNIFIED SCHOOL DISTRICT; POWAY DISTRICT BOARD OF EDUCATION; AND MARIAN KIM PHELPS, SUPERINTENDENT

# Exhibit

# A

**POWAY UNIFIED SCHOOL DISTRICT  
REAL PROPERTY ADVISORY COMMITTEE**

***REPORT TO THE BOARD OF EDUCATION***

***MAY 21, 2012***



**Real Property Advisory Committee**

Kathy Frost, Chair  
Mark Claussen, Co-chair

Members

Sabrina Butler  
Rob Caringella  
Debra Keel Cooper  
Amy Huff  
John Spelta  
Bill Stewart  
Mike Tarantino

***Support***

Sandi Burgoyne, Poway Unified School District  
Rheia Vigay, Poway Unified School District  
Joe Taylor, Taylor Consulting  
Tyree Dorward, Best Best & Krieger  
Larry Ferchaw, Dolinka Group

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## **Introduction**

The Poway Unified School District (“District”) is located in northern San Diego County, California. Encompassing an area of approximately 100 square miles, the District’s schools are situated in the City of Poway, the City of San Diego, and the County of San Diego.

The District currently operates 25 elementary schools (K-5), six middle schools (6-8), five comprehensive high schools (9-12), and one continuation high school. Twenty-six (26) schools are located in the City of San Diego; eight (8) schools in the City of Poway and three (3) schools are in the County of San Diego. The District currently serves approximately 34,000 students and is the third largest school district in the county. In addition to its existing facilities, the District also has certain real property assets that are not currently being used for District purposes.

Accordingly, following discussions and recommendations by District staff, the District’s Board of Education (the “Board”) established and appointed a Real Property Advisory Committee (“RPAC”) at the February 28, 2012 Board meeting, pursuant to Education Code Section 17385 *et seq.* Under the requirements of the Education Code, the RPAC is asked to review, analyze and make recommendations for the Board’s consideration regarding whether such real property assets might be needed for school purposes or whether such sites might be surplus and not needed for school purposes. Ultimately, if a site is declared surplus by the Board, the District may proceed with the potential sale, lease, or other asset management option for such site(s) as determined by the Board

This report contains a complete record of the process, meetings, and surplus property recommendations of the District’s RPAC for the Board to consider.

## **RPAC Committee Members**

Pursuant to Education Code Section 17388, the RPAC is required to advise the Board of Education in the development of Districtwide policies and procedures governing the use or disposition of school buildings or space in school buildings which is not needed for school purposes. The committee must consist of no less than seven (7) members and not more than eleven (11) members, and must be representative of each of the following:

- (a) The ethnic, age group, and socioeconomic composition of the District;
- (b) The business community, such as store owners, managers, or supervisors;
- (c) Landowners or renters, with preference to be given to representatives of neighborhood associations;
- (d) Teachers;
- (e) Administrators;

- (f) Parents of Students;
- (g) Persons with expertise in environmental impact, legal contracts, building codes, and land use planning, including, but not limited to, knowledge of the zoning and other land use restrictions of the cities or cities and counties in which the surplus space and real property is located.

A listing of the District's RPAC members and their respective group(s) can be found in **Exhibit A**, which is attached hereto and made a part hereof for all purposes.

## **Overview of the Sites**

The Board authorized the RPAC to review the need and use of the following District-owned sites, all of which are currently vacant and undeveloped

- (i) Rancho Bernardo Water Tower Site;
- (ii) Four Gee Road Site;
- (iii) Torrey Highlands Site; and
- (iv) Santaluz Site (collectively referred to as the "Sites").

A more detailed profile of the Sites is attached hereto as **Exhibit B**.

Currently, the Sites are vacant parcels, do not serve students, do not serve the community, do not generate revenue and are not otherwise used for District purposes other than occasional storage of M&O equipment. At present, the Sites cost the District approximately \$50,000 a year in general maintenance and upkeep. By relieving the District of these on-going site maintenance costs and potentially realizing revenue from one or more asset management options for the Sites, the Board would be able to earmark such new funds for other programs and services for students throughout the district. As discussed with the RPAC, currently, pursuant to Education Code Section 17463.7, the District may, if certain procedural requirements are met, use proceeds from the sale of surplus property for one time general fund expenditures.

## **Meeting Information**

The RPAC held its inaugural meeting on Tuesday, February 28, 2012, at which time a Chair, Ms. Kathy Frost and Vice Chair, Mr. Mark Claussen, were chosen. The RPAC reviewed its purpose and function, as well as planned out the process for completing its required tasks and reporting back to the Board. The RPAC then held two public hearings, on March 13, 2012, and March 27, 2012, to solicit community input on the Sites. No members of the public attended or commented at these public hearings, or at any of the other meetings of the RPAC. The RPAC then held a final meeting to review and approve this report with its considerations and recommendations for the Board on April 24, 2012. Copies of all of the meeting agendas and minutes can be found in **Exhibit C** attached hereto.

## Criteria and Information Considered

Pursuant to Education Code Section 17390, the RPAC's duties include:

- 1) Reviewing projected student enrollment and other data to determine the potential surplus space/real property not needed for school purposes;
- 2) Obtaining community input regarding such potential surplus space through public hearings and meetings;
- 3) Making a final determination of potential need for such surplus space for school purposes
- 4) Providing a report and recommendations to the Board regarding such potential surplus space and/or real property.

In accordance with these duties, the RPAC reviewed current enrollment capacities and projections as required by law. Additionally, the RPAC discussed and reviewed other criteria to determine if the Sites should be declared as surplus. The criteria discussed and the information provided at the RPAC meetings described above included but was not limited to: (a) a review of potential future residential development within the District; (b) a discussion and review of enrollment history and classroom utilization at every school site in the District; and, (c) a review of long term enrollment projections for future enrollment through 2018-2019 (when it is anticipated that the District will be built-out). As described in the data reviewed by the Committee, even with adjustments to the current District loading standards, there will be adequate seats to accommodate future enrollment at build-out. The California Basic Education Data System (CBEDS) data indicates that there were 33,940 students enrolled within the District in October of 2012. The long term projections estimate enrollment will increase to approximately 37,700. The District will also increase seating capacity with the planned construction of one additional K-8 school in the northwest quadrant of the District to mitigate future students in the Community Facilities Districts.

Complete copies of all of the data and information reviewed by RPAC is attached hereto as **Exhibit D**.

## Findings of the RPAC

The RPAC found that the current available seating within the District can accommodate the current enrollment of the District as well as the long-term enrollment projected by District staff and consultants, without the need for or use of the identified vacant Sites for school facilities.

The RPAC then voted 8 - 0 to recommend that the Board find that the Sites are not needed for school facilities and should be declared surplus pursuant to the requirements of the Education Code.

## **Final Recommendations**

1. The RPAC recommends that the Board find and declare all of the Sites surplus as they are not currently needed for school purposes and are not anticipated to be needed in the foreseeable future.

## **Exhibits**

- A. RPAC Members
- B. Property Profile(s)
- C. Agendas and Minutes
- D. Data and Information provided to RPAC

**REAL PROPERTY ADVISORY COMMITTEE OF THE POWAY UNIFIED SCHOOL  
DISTRICT (7.11 Committee)**

**Committee Members**

**Sabrina Butler**

Sabrina and her husband, Sam, have lived in Poway for 15 years. They have two sons, a 5th grader in Valley Elementary's Dual Immersion program and an 8th grader at Twin Peaks Middle School. She has a B.S. in Management from the Georgia Institute of Technology. She has worked as a project and change management consultant in both the public and private sectors for over 15 years. Sabrina has served on a variety of PUSD, PTA, area youth sports, City of Poway boards and committees. She was the co-chair of the Prop C bond initiative and a co-founder of the Poway Community Association.

**Rob Caringella**

Rob is a parent with two children at Willow Grove Elementary. Currently serves as Vice President of the Willow Grove Educational Foundation. Rob has an Economics and Real Estate background and co-owns a real estate appraisal and consulting firm in San Diego.

**Mark Claussen**

Mark Claussen is a Vice President with a global engineering firm, Arcadis, and has lived in Poway with his wife Paula and two children, Natalie and Adam, for over 11 years. Natalie graduated from Poway and Adam from Mt Carmel High Schools. Mark is a Professional Engineer with over 34 years of experience in customer oriented facilities management, building construction, real property environmental services, and infrastructure development organizations. His career experience includes capital and facilities asset master planning; large construction program administration; environmental program compliance; and K-12 facilities expansion and modernization support. A 23 year veteran of the Naval Facilities Engineering Command, he is a 1977 graduate of the US Naval Academy and has a Masters Degree in Financial Management.

**Debra Keel Cooper**

Debra Keel Cooper and her husband, Craig, are parents to two children in the Poway Unified School District; a third-grader at Willow Grove Elementary and a sixth-grader at Black Mountain Middle. Active with her childrens' schools for seven years, Debra has served as President of the Willow Grove Educational Foundation, on the School Site Councils for both Sunset Hills and Willow Grove Elementary Schools, and as a member of the Superintendent's Community Budget Advisory Committee. Debra has a marketing and public affairs background, and holds a Bachelors Degree in the Social Sciences with a Minor in Political Science from the University of California, Irvine.

### **Kathy Frost**

Kathy and her husband, Grant, have been residents of Rancho Penasquitos for 24 years. Their son currently attends Westview High School. Kathy has a B.S. in Mechanical Engineering and worked for San Diego Gas & Electric for over 20 years. Her career experience includes: power plant engineering, oversight of the gas transmission system, environmental and safety management, facilities and real estate asset management (including the development of a 5 -year facility capital plan), procurement and storeroom management and emergency operations. Kathy is currently a full time volunteer, serving on various community, school and PUSD committees including PUSD's Citizen Oversight Committees for both Prop U and Prop C.

### **Amy Huff**

Amy is a Teacher on Special Assignment at Willow Grove Elementary. She is passionate about student learning and has been teaching and inspiring students for 30 years. She began her career in Florida but has been teaching students in Poway for the last 11 years.

### **John Spelta**

John Spelta, his wife Claire and their two daughters; Jacqueline and Angelina have lived in the Poway Unified School District for over eight years. Jackie and Angie are currently attending Del Sur Elementary. John holds a CPA license and has worked in the real estate industry for over 10 years. John graduated from Loyola Marymount University where he earned a Bachelor of Science in Accounting degree and then a Masters Degree in Business Administration.

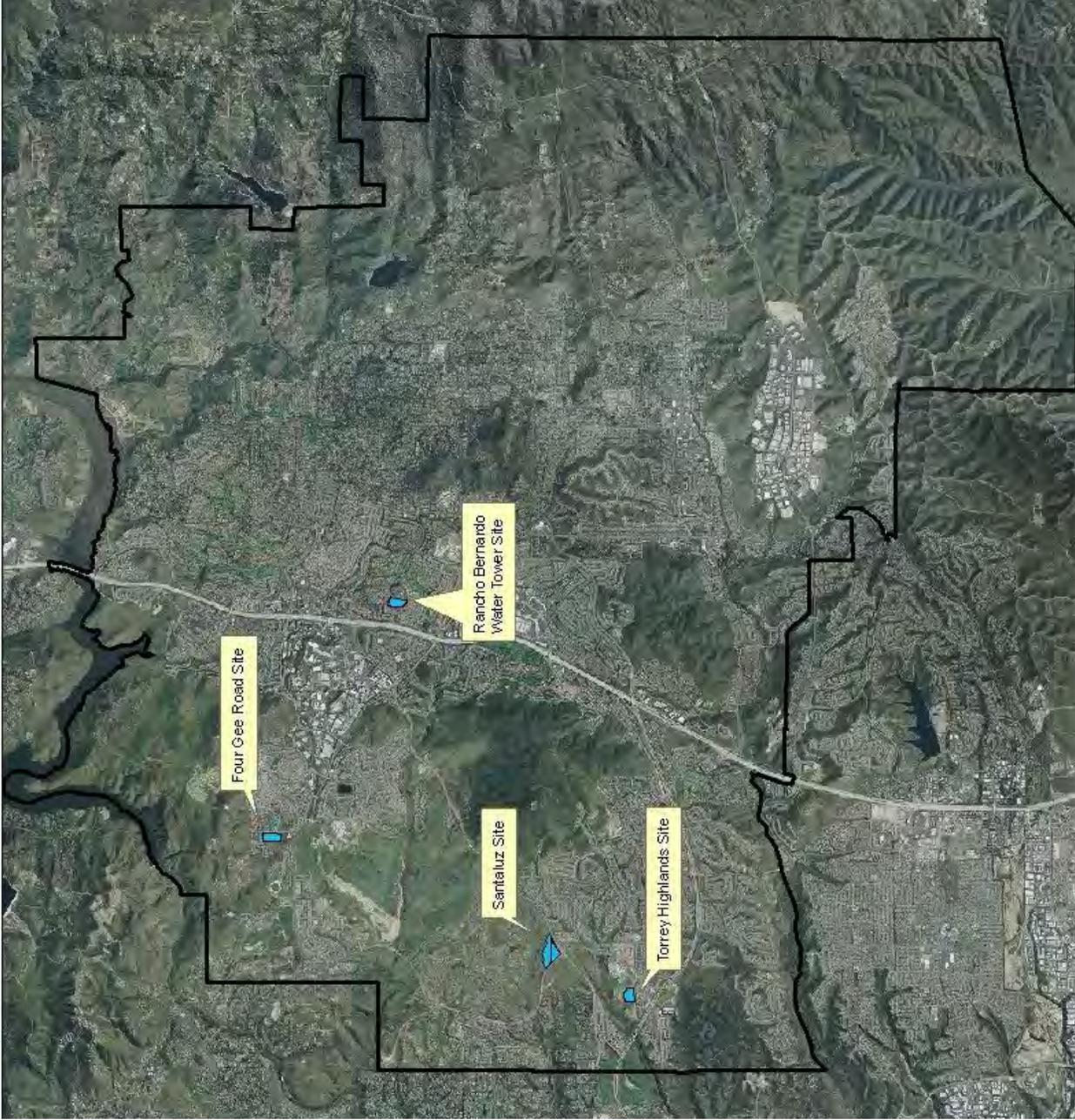
### **Bill Stewart**

Bill Stewart has served as General Manager at Santaluz Maintenance Association since 2001. He has 38 years of experience in managing large, sophisticated planned communities in California and both supporting and being responsible for interface with various school districts. He co-founded the California Association of Community Managers and served as the statewide organizations' third chair. He has had a major role in shaping and preserving the architectural and land use standards of the Santaluz community

### **Michael Tarantino**

Mike has been with Poway Unified School District for 28 years and was promoted to Director of Facilities, Maintenance and Operations a year ago. He has been a Rancho Bernardo resident for 28 years and his three children are all graduates of the District. Mike has a B.S. in Business Management and also is certified in Human Resources. Outside of the District, he is an officer with the Sports Turn Managers' Association.

# Sites



# Rancho Bernardo Water Tower Site



PROPERTY INFORMATION	DESCRIPTION	COMMENTS
WATER TOWER SITE		
PARCEL NUMBERS	274-840-06-00	
ACREAGE	10.88 Gross	
PURCHASE PRICE	\$0	Title Policy Value \$4M
FUNDED BY CFD	No	Mitigation Agreement
CURRENT ZONING	School Site on Community Plan	Underlying Zone is now RS-1-14
PROPOSED ZONING	Multi-Family for Sale or Rental	Will Require Community Plan Amendment
ESTIMATED TIME TO REZONE	12-18 Months	
COMMUNITY PLANNING BOARD	Rancho Bernardo	
REQUIRE 7-11 COMMITTEE	Yes	Not required to offer to Park and Rec
FIRST RIGHT OF REFUSAL	No	

# Four Gee Road Site



FOUR GEE ROAD	DESCRIPTION	COMMENTS
PARCEL NUMBERS	678-070-25-00	
ACREAGE	11.23	
PURCHASE PRICE	\$0	Prior Sale Amount \$730K-Phase One Dev.
FUNDED BY CFD	Yes	
CURRENT ZONING	School Site	Underlying Zone RR-Rural Residential
PROPOSED ZONING	Church, Single Family, Multi-family	
COMMUNITY PLANNING BOARD	County of San Diego	
REQUIRE 7-11 COMMITTEE	Yes	Not required to offer to Park and Rec
FIRST RIGHT OF REFUSAL	No	

5/8/2012







**REAL PROPERTY ADVISORY COMMITTEE  
OF THE POWAY UNIFIED SCHOOL DISTRICT  
(7.11 Committee)  
MEETING MINUTES  
Tuesday, February 28, 2012**

**I. PRELIMINARY**

*a. Call to Order*

The first meeting of the Real Property Advisory Committee was called to order at 6:30 p.m. by Sandi Burgoyne, PUSD Director.

*b. Members in Attendance/Introductions*

Committee members and attendees introduced themselves and provided a little information about their background and interest in the Committee.

Members Present:            Sabrina Butler  
                                      Rob Caringella  
                                      Mark Claussen  
                                      Debra Keel Cooper  
                                      Kathy Frost  
                                      Amy Huff  
                                      John Spelta  
                                      Bill Stewart  
                                      Michael Tarantino

Others Present:             Sandi Burgoyne, Director  
                                      John Collins, Superintendent  
                                      Tyree Dorward, BB&K  
                                      Joe Taylor, Consultant  
                                      Malliga Tholandi, Associate Superintendent  
                                      Rheia Vigay, Senior Planning Analyst

*c. Selection of Chair and Vice Chair*

Ms. Burgoyne asked for volunteers to fill the positions of Chair and Vice Chair. Kathy Frost accepted the position of Chair and Mark Claussen accepted the position of Vice Chair

*d. Approval of Agenda*

Ms. Burgoyne reviewed the agenda items and then turned the meeting over to the District legal counsel, Tyree Dorward.

**II. ITEMS OF BUSINESS**

*a. Review of the Brown Act and Conflict of Interest (Form 700) Requirements*

Mr. Dorward reviewed the general Brown Act requirements. It was also decided that since the Committee was advisory only, the need for a Form 700 would not be necessary.

*b. Review of Purpose and Tasks of the Committee*

A PowerPoint presentation (**attached**) was made by Mr. Dorward reviewing the Education Code requirements, process, and tasks of the Committee.

Joe Taylor provided additional information about the real properties that the Committee would be considering.

*c. Future meeting Dates and Locations*

Ms. Burgoyne proposed the following times and dates for future meetings. All meetings will be held in Conference Room #204 at the Administration Center, 15250 Avenue of Science from 6:30 p.m. – 8:30 p.m.

Tuesday, March 13

Tuesday, March 27

Tuesday, April 10

Tuesday, April 24

Tuesday, May 8

Two tentative Board Meeting target dates were provided to the Committee as proposed dates to present the Committee's Report to the PUSD Board of Education:

Monday, April 16

Tuesday, May 8

*d. Determination of time limit for Public Comment*

To be discussed at future meeting

III. PUBLIC COMMENTS

a. There were no public comments.

IV. **ADJOURNMENT**

The meeting was adjourned at 7:30 p.m.

---

Kathy Frost, Chair

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Mark Claussen, Vice Chair



**REAL PROPERTY ADVISORY COMMITTEE  
OF THE POWAY UNIFIED SCHOOL DISTRICT  
(7.11 Committee)  
MEETING MINUTES  
Tuesday, March 13, 2012**

**I. PRELIMINARY**

*a. Call to Order*

The meeting was called to order at 6:30 p.m. by Kathy Frost, Chair. Real Property Committee binders were provided to all members present that included all previous agenda items and minutes from the first meeting of 2.28.12.

*b. Roll Call*

Members Present:            Sabrina Butler  
                                     Rob Caringella  
                                     Mark Claussen  
                                     Debra Keel Cooper  
                                     Kathy Frost  
                                     Amy Huff  
                                     John Spelta  
                                     Michael Tarantino

Members Absent:            Bill Stewart

Others Present:             Sandi Burgoyne, Director  
                                     Tyree Dorward, BB&K  
                                     Larry Ferchaw, Dolinka Group  
                                     Joe Taylor, Consultant  
                                     Rheia Vigay, Senior Planning Analyst

*c. Approval of February 28, 2012 Minutes*

The Chairperson, Kathy Frost requested that a revision be made to the minutes to reflect she was in attendance at the 2.28.12 meeting and her name be added to the Members Present roster. It was then moved by Mark Claussen and seconded by Sabrina Butler that the minutes of the 2.28.12 Real Property Advisory Committee Meeting be approved with the recommended edit. **Motion carried unanimously, 8-0.**

*d. Approval of Agenda*

It was moved by Sabrina Butler, seconded by Mark Claussen, that the agenda for the 3.13.12 Real Property Advisory Committee Meeting be approved as presented. **Motion carried unanimously, 8-0.**

**II. ITEMS OF BUSINESS**

*a. Determination of time limit for Public Comment*

Tyree Dorward provided recommendations on how to determine establishing a time limit for Public Comment. It was then moved by Mark Claussen that the time limit for Public Comment be set parallel with the time limit used for the PUSD Regular Board

Meetings of three (3) minutes and seconded by Sabrina Butler. **Motion carried unanimously, 8-0.**

*b. Public Hearing*

The Chairperson opened the Public Hearing and called for public comments on the surplus real property.

*c. Adjourn Public Hearing*

The Public Hearing was adjourned with no public comments.

*d. Review of District Residential Development*

Ms. Burgoyne provided a visual overview of the District and the current development projects. She shared that there are approximately 3,900 homes still to be developed in the District, mostly within the Community Facilities Districts (CFDs). She then provided the Committee with an aerial view of all of the school facilities and maps of the school boundaries for K-5, 6-8 and 9-12.

*e. Review of Classroom Utilization*

The current classroom utilization configurations for all grade levels was presented by Ms. Burgoyne showing that the District had from 17,273 – 22,530 K-5 seats available (depending on different loading standards); 9,207 – 11,935 6-8 seats available (depending on different loading standards); and 15,444 – 20,020 9-12 seats available (depending on different loading standards). These numbers do not include seats that will be generated from the proposed K-8 school in Del Sur.

*Review of Long Term Enrollment Projections*

The methodology for projecting student enrollment and the long-term enrollment projections for the School District were presented by Mr. Ferchaw. Those projections show K-5 enrollment growing from 15,673 students in 2010-2011 to 17,185 students in 2018-2019; middle school (6-8) enrollment growing from 7,900 students in 2010-2011 to 9,088 students in 2018-2019; and high school (9-12) enrollment growing from 10,682 students in 2010-2011 to 11,427 students in 2018-2019. Mr. Ferchaw also reviewed potential efforts to house student enrollment in the 4S Ranch and Del Sur areas, which included (i) expansion of Oak Valley and construction and at least one (1) elementary school, (ii) conversion to K-6 elementary schools and the construction of at least two (2) elementary schools, and (iii) construction of a K-8 facility with 1,000 elementary school seats and 500 middle school seats. The District is currently planning the construction of the K-8 option.

*f. Introduction of Potential Surplus Sites*

Mr. Taylor reviewed the location and property details of the four sites to be considered as surplus:

1. 10.88 Acre Water Tower Site located in the Rancho Bernardo area in the City of San Diego
2. 10.48 Acre Site located in the Torrey Highlands area in the City of San Diego
3. 27.22 Acre Site located at Carmel Valley Road and Camino del Sur in the City of San Diego
4. 11.23 Acre Site located on Four Gee Road in the County of San Diego

Ms. Burgoyne also reviewed the annual projected budget of approximately \$50,000/yr. to maintain the surplus properties and stated the estimated did not include staff time. Current cumulative costs for the four sites is over \$550,000.

**III. PUBLIC COMMENTS**

*a. There were no public comments.*

**IV. ITEMS FOR NEXT MEETING**

*a. The Chairperson requested recommendations for the new Real Property Advisory Committee Meeting Agenda on March 27, 2012. The following items will be placed on the Agenda:*

- i. Discussion and potential vote by Committee to recommend finding the properties under consideration are surplus and not needed for school purposes*
- ii. Presentation and discussion of Education Code Requirements/Options for Future Use of Surplus Sites*
- iii. Discussion on preparation of committee's final report to PUSD Board.*

**V. ADJOURNMENT**

The meeting was adjourned at 8:00 p.m.

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Kathy Frost, Chair

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Mark Claussen, Vice Chair



**REAL PROPERTY ADVISORY COMMITTEE  
OF THE POWAY UNIFIED SCHOOL DISTRICT  
(7.11 Committee)  
MEETING MINUTES  
Tuesday, March 27, 2012**

**I. PRELIMINARY**

*a. Call to Order*

The meeting was called to order at 6:30 p.m. by Kathy Frost, Chair

*b. Roll Call*

Members Present: Sabrina Butler (arrived late)  
Rob Caringella  
Mark Claussen  
Kathy Frost  
Amy Huff  
John Spelta  
Bill Stewart  
Michael Tarantino

Members Absent: Debra Keel Cooper

Others Present: Sandi Burgoyne, Director  
Tyree Dorward, BB&K  
Joe Taylor, Consultant  
Rheia Vigay, Senior Planning Analyst

*c. Approval of March 13, 2012 Minutes*

It was moved by Mark Claussen and seconded by Michael Tarantino that the minutes of the 3.13.12 Real Property Advisory Committee Meeting be approved with the recommended edit. **Motion carried, 7-0.**

*d. Approval of Agenda*

It was moved by John Spelta, seconded by Mark Claussen, that the agenda for the 3.27.12 Real Property Advisory Committee Meeting be approved as presented. **Motion carried, 7-0.**

**II. ITEMS OF BUSINESS**

*a. Public Hearing*

The Chairperson opened the Public Hearing and called for public comments on the surplus real property.

*b. Adjourn Public Hearing*

The Public Hearing was adjourned with no public comments.

c. *Committee Discussion on Surplus Property*

The Chairperson called for any comments on the process for declaring properties discussed at the 3.13.12 meeting as surplus based on the presentation at the 3.13.12 meeting which demonstrated that there is more than sufficient student capacity in existing and planned facilities to accommodate current and projected long term enrollment. There were not any additional comments.

d. *Vote on Surplus Property*

It was moved by Mark Claussen that the four properties reviewed at the 3.13.12 Real Property Advisory Committee Meeting be found surplus properties to the District's current and projected long term student population needs, and that committee could recommend that the District Board of Education declare such properties surplus and consider appropriate asset management options in the Board's discretion. The motion was seconded by Rob Caringella. **Motion carried, 7-0.** The motion was reopened upon Sabrina Butler's arrival and **the Motion carried, 8-0.**

e. *Presentation on Education Code Requirements/Options for Surplus Property*

Mr. Dorward presented a PowerPoint summary of the Education Code requirements and options applicable to the potential asset management decisions that the District might make as they relate to the four properties. In the discussion, Mr. Dorward emphasized that the District's Board of Education always retains the ultimate discretion to declare one or more of the properties surplus and determine which asset management option(s) is in the best interest of the District.

f. *Discussion on process for preparing Final Report to Board of Education and timeline*

Ms. Burgoyne proposed a timeline to the Committee to allow adequate time to prepare a draft Final Report and be able to have finalized to present to the Board of Education at a future date:

It was moved by Mark Claussen and seconded by Rob Caringella that the following timeline be approved. **Motion carried, 8-0.**

April 11	Draft Report prepared and sent to all Members
April 20	Comments received by all Members
April 24	Meeting to review final draft document
May 8	Follow-up meeting if necessary
May 21	Presentation of Final Report to the Board

The Committee provided their comments on what they would like to be included in the final report. Mr. Dorward explained what the focus of the Committee Report should first contain the committee's finding and recommendation that the four properties be found surplus and not needed for school purposes, all other issues are secondary. Accordingly, in the discussion regarding the report, the committee expressed a desire to include a section in the report for committee member comments so that the committee members could provide additional information to the District's Board of Education in the final report. District staff and consultants agreed to provide a space for such comments in the draft report.

### III. PUBLIC COMMENTS

a. *There were no public comments.*

IV. **ITEMS FOR NEXT MEETING**

- a. *Review of Final Draft Report for presentation to the Board at the May 21, 2012 meeting by the Chair and Vice Chair.*

V. **ADJOURNMENT**

It was moved by Mark Claussen and seconded by Michael Tarantino that having no further business the meeting be adjourned. The meeting was adjourned at 7:22 p.m.

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Kathy Frost, Chair

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Mark Claussen, Vice Chair



**REAL PROPERTY ADVISORY COMMITTEE  
OF THE POWAY UNIFIED SCHOOL DISTRICT  
(7.11 Committee)  
MEETING MINUTES  
Tuesday, April 24, 2012**

**I. PRELIMINARY**

a. Call to Order

The meeting was called to order at 6:30 p.m. by Kathy Frost, Chair

b. Roll Call

Members Present: Debra Kell Cooper  
Rob Caringella  
Mark Claussen  
Kathy Frost  
Amy Huff  
John Spelta (late)  
Bill Stewart  
Michael Tarantino

Members Absent: Sabrina Butler

Others Present: Sandi Burgoyne, Director  
Tyree Dorward, BB&K  
Joe Taylor, Consultant  
Rheia Vigay, Senior Planning Analyst

c. Approval of March 27, 2012 Minutes

It was moved by Bill Stewart and seconded by Mark Claussen that the minutes of the 3.27.12 Real Property Advisory Committee Meeting be approved. **Motion carried, 7-0.**

d. Approval of Agenda

It was moved by John Rob Caringella, seconded by Mark Claussen, that the agenda for the 3.27.12 Real Property Advisory Committee Meeting be approved as presented. **Motion carried, 7-0.**

**II. ITEMS OF BUSINESS**

**a. Review Final Draft of RPAC Report to the Board of Trustees**

The Committee reviewed the content of the draft final report and it was then moved by Debra Kell Cooper and seconded by Mark Claussen that the Final Report be amended as follows:

- Amend verbiage in the paragraph in the "Criteria and Information Considered" section
- Eliminate the section entitled "RPAC Member comments Submitted for Board Consideration"

- Add Exhibit "E". Exhibit "E" will contain comments, considerations, recommendations and suggestions by individual Committee members to the Superintendent and Board on the recommended use/disposal of surplus sites.

After extensive discussion by the Committee regarding inclusion of an Exhibit "E", the motion did not carry and was withdrawn.

In addition, there was further discussion and clarification by legal counsel of the responsibilities and duties of the committee. Legal counsel reiterated that the committee's primary task is to make a recommendation to the District's Board regarding whether the properties are needed for school purposes and, whether or not the properties are actually declared surplus. What sort of asset management option is best for such properties is solely a Board decision.

The committee discussed these issues further and it was ultimately recommended that Recommendation No. 2 under "Final Recommendation(s)" be eliminated and that no Exhibit "E" be included. In addition, the committee encouraged those Committee Members who would like to voice their individual opinions/suggestions regarding the ultimate disposition and/or use of the properties to do so outside of the report. Those Committee Members were encouraged to write a letter directed to the Superintendent/Board of Education as a community member or participate in the public process that is required when a public agency determines they have surplus properties and would like to dispose of them.

It was then moved by Mark Claussen and seconded by Bill Stewart that the Final RPAC Report be adopted with the amendments as follows and be presented to the Board of Education at the May 21, 2012 Board Meeting;

- Remove Recommendation No. 2 under "Final Recommendation(s)"
- Do not create Exhibit "E"

**Motion carried 8-0.**

The Final Draft will be submitted to all Committee Members for review prior to the May 21, 2012 Board presentation.

Sandi Burgoyne next requested that legal counsel (Ty Dorward) describe the additional Board Agenda Item that will be presented at the May 21, 2012 meeting should the Board of Education accept the Recommendation of the RPAC.

Legal counsel informed the Committee that the Superintendent has requested that staff prepare the documents necessary to allow the Board of Education, at their May meeting, to consider adopting the Committee's recommendation that the "Water Tower Site" be declared surplus and to begin the Education Code process required to consider potentially selling the Water Tower Site. Accordingly, staff will be bringing an agenda item with a Resolution to the Board at that time to potentially commence the sale process for this site.

Committee members were encouraged to attend the May 21, 2012 meeting if they would like to observe the initiation of the public process to dispose of surplus property by a public agency.

b. **Determine Necessity for additional RPAC meeting on 5.8.12.**

The Chair stated that since the Final Draft of the RPAC Report had been approved and would be presented to the Board on May 21, 2012, there was no need for an additional RPAC meeting on May 8, 2012.

c. **Selection of RPAC Committee Members for attendance at 5.21.12 Board Meeting.**

It was recommended by Sandi Burgoyne that the Chair and Co-chair present the final Report at the May 21, 2012 Board meeting. A motion was made by Rob Caringella and seconded by Debra Kell Cooper. **Motion carried 7-0.** Sandi Burgoyne extended an invitation for all Committee members to attend the Board meeting so they could be recognized by the Board of Education and thanked for their participation.

**III. PUBLIC COMMENTS**

a. There were no public comments.

**IV. ADJOURNMENT**

It was moved by Mark Claussen and seconded by Rob Caringella that having no further business the meeting be adjourned. The meeting was adjourned at 7:20 p.m.

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Kathy Frost, Chair

---

Mark Claussen, Vice Chair

Exhibit

B



**POWAY UNIFIED SCHOOL DISTRICT  
MINUTES OF THE BOARD OF EDUCATION  
AT A REGULAR MEETING**

**May 21, 2012**  
District Office Community Room

**CLOSED SESSION**

President Linda Vanderveen called the meeting to order at 4:07 p.m. to receive public comment on the closed session agenda items. There were no public comments, and four Board members convened to closed session in the Board conference room. Todd Gutschow was absent from the meeting. The closed session was adjourned at 5:47 p.m., and Board members reconvened in the Community Room to begin their regular meeting and relay any reportable action taken during closed session.

**REGULAR MEETING**

**A. PRELIMINARY FUNCTIONS**

**A-1 Reconvene / Call to Order**

The regular meeting of the Board of Education was called to order at 6:03 p.m. by President Linda Vanderveen.

**A-2 Report Out of Closed Session**

CLOSED SESSION: CONFERENCE WITH LEGAL COUNSEL – POTENTIAL LITIGATION:  
(Subdivision (b)(1) of Section 54956.9)  
(Two cases)

CLOSED SESSION: CONFERENCE WITH LABOR NEGOTIATOR  
Agent Negotiator: Bill Chiment  
PFT, PSEA, SEIU

CLOSED SESSION: CONFERENCE WITH REAL PROPERTY NEGOTIATORS  
Property: APN# 274-840-06-00  
Agency negotiator: John P. Collins

CLOSED SESSION: CAHSEE WAIVER FOR GRADUATION FOR STUDENTS WITH  
DISABILITIES - CONSIDERATION (EC 56101, 60851)

On motion of Mr. Patapow, and second by Mr. Davis, and in accordance with California Education Code Sections 35146, 60850, 60851 and PUSD Board Policy 3.6, the Board reviewed 9 California High School Exit Exam waiver requests. These requests are for Special Education students who passed the California High School Exit Exam with modifications as specified in their Individual Education Plans. The Board approved by unanimous vote all 9 waiver requests.

There was no other reportable action taken in closed session.

**A-4 Members in Attendance**

Four Board members were in attendance. Todd Gutschow was absent from the meeting.

**(c) Staff Recognition**

Abraxas High School counselor George Pantano was recognized for being named the Support Person of the Year for District IX at the California Continuation Association Conference. Ten teachers received Crystal Apple awards from the Rancho Peñasquitos and Poway Stakes of The Church of Jesus Christ of Latter-Day Saints. Nine Excellence in Special Education Awards were presented by the PUSD Community Advisory Committee to honor staff who made a positive impact on their students' education.

**(d) District Recognition**

This month Ron Cole, Pilar Gross, and Sharon Stephens were selected as Districtwide Volunteers of the Year. In addition, other recognitions include the Character and Ethics Film Festival awards; 26 Poway schools being listed on the California Business for Education Excellence Honor Roll; Westview, Poway, and Rancho Bernardo High Schools being included on the U.S. News & World Report annual survey of American high schools, and Willow Grove second graders winning the National Science Teachers Association Toshiba ExploraVision Western Regional Award.

**B-3 Board Member Reports**

Board members reported on their activities and events attended in the previous month.

**B-4 Real Property Advisory Committee Report to the Board of Education**

Chairperson Kathy Frost and Co-Chairperson Marc Claussen presented the findings and recommendations of the Real Property Advisory Committee (RPAC) to the Board.

**EARLY AGENDA ITEMS** – *As approved in agenda item A-7, these items were considered prior to routine agenda items.*

**D-601 Appointment of Student Board Member to Serve During the 2012-2013 School Year**

It was moved by Mrs. Ranftle, seconded by Mr. Patapow, that the Board accept the recommendation of the interview committee and appoint Anna Page to serve as the Student Board Member during the 2012-2013 school year. *Motion carried unanimously, 4-0.*

**D-602 Approval of Resolution No. 48-2012 entitled “Approving the Recommendation of the Poway Unified School District Real Property Advisory Committee (RPAC), Declaring Sites Surplus Properties, and Authorizing Staff to Commence with the Process for Potential Sale, Lease, and/or Other Asset Management Options of Surplus Properties, Including Commencing with the Process for Potential Sale or Lease of APN# 274-084-06-00, Commonly Referred to as the Water Tower Site”**

It was moved by Mrs. Ranftle, seconded by Mr. Davis, that the Board approve Resolution No. 48-2012, adopting the recommendation of the Real Property Advisory Committee (RPAC), and that the Board find and declare all of the sites surplus and direct the Superintendent to proceed with the legal process for potential sale, lease, and/or other asset management options available for surplus sites, including the potential sale or lease of APN #274-840-06-00. *Motion carried unanimously, 4-0.*

**C. PUBLIC COMMENTS**

There were no public comments.

Exhibit

C

# Poway Unified School District: Potential Lease, Sale or Exchange of Black Mountain Ranch Southern Property (Santaluz) (August 8, 2019)



## Presented by:

Andreas C. Chialtas  
AALRR

Dr. Barry Blade,  
Property Consulting  
for Schools



# Summary of Property

- Approximately 27.22 acres of vacant land
- North of intersection of Carmel Valley Road and Camino Del Sur
- Majority of Property (26.71 acres) zoned AR-1-1 (Agriculture-Residential); and remaining (0.51 acres) zoned RS-1-13 (Residential)

# Summary of Property



Looking in a general northerly direction from near the southernmost corner of the property.

# Summary of Property



Looking in a southwesterly direction across a portion of the subject property. Carmel Valley Road is visible in the left hand side of the photo.

# Summary of Property



Looking southeast along Camino Del Sur towards the intersection of Carmel Valley Road. The subject is visible on the left.

# History of Property

- In May 2012, Board formally declared the Property surplus property; no further action taken
- June 27, 2019, Board adopted resolution authorizing staff to seek a waiver from the California Department of Education (CDE) to lease or sell the Property
- District has submitted a waiver application
- District can also exchange the Property

# Summary of Waiver

- Use “Request for Proposal” (RFP) Process
  - Instead of competitive bidding process
- Non-Waiveable Provisions
  - Offer to some public entities; Use of proceeds
- CDE must approve
  - unless increase to State costs, or jeopardizes pupils, parental involvement, etc.
- CDE reviews and then CDE Board approves
  - Next CDE Board meeting is September 11-12, 2019
- Typical “Un-Official” Requirements by CDE:
  - RFP Process
  - Approve within 60 days of receipt of proposals
  - State reasons for “most beneficial” deal

## Recommendation: Request for Proposal Process

- Circulate a “RFP” Package
  - Describe Property
  - Seek Background Information About Proposer
  - List Information to Provide for Lease, Sale or Exchange
- Consider Factors In Addition to Price
  - Deposits / Due Diligence / Escrow Period
  - Use of Property
  - Election Strategy and Resources
  - Exchange Properties
- Consider Lease, Sale & Exchange Concurrently
- Select the Proposal that Offers the “Most Beneficial” Terms for the District

# Benefits of RFP Process

## Versus Competitive Bid Process

- Bid is the “Standard” process required by the Education Code
- Bid requires District to award a lease or sale agreement to the highest bidder
- Bid process does not allow negotiations with interested parties, but instead District must establish the terms of lease or sale and assess bids based only on total price
- RFP grants flexibility, ability to negotiate with interested parties, and option to consider both lease and sale (or exchange) concurrently to select best overall option

# Recent RFP Example – Ground Lease: Capistrano Unified School District

- CUSD obtained waiver to use RFP process for lease of South Bus Yard Site, approximately 5.1 acres
- Received a total of 5 ground lease proposals
- Negotiated a final Option Agreement and Ground Lease with Toll Bros. Apartment Living
  - 99 year Lease; 425 market rate units
  - Initial deposit of \$1,300,000, partially staggered, plus Extension Options of \$250,000 each, for 6 mos.
  - \$3,150,000 initial annual base rent (13.14% increase every 5 years)

# Recent RFP Example - Sale: Fountain Valley School District

- FVSD obtained waiver to use RFP process for former school site, approximately 12.9 acres
- Received a total of 20 purchase, 1 ground lease and 3 lease proposals
- Negotiated final Purchase Agreement
  - Purchase price of \$36,500,000 (range \$5M to \$38.15M)
  - Initial deposit of \$1,000,000
    - of which \$100,000 is kept by FVSD even if the sale is not complete
    - \$3,650,000 non-refundable 60-90 days after opening of escrow

# RFP Example – Exchange: Cypress School District

- District Properties: 9.53 acre former Dickerson Elementary School, valued at \$20,234,000 -and- 6.8 acre former Mackay Elementary School, valued at \$10,285,000
- Exchange Agreement granted District Options for Properties to be received by District:
  - 1) Developer Owned Property: District and Developers would identify property owned by Developer, and if not...
  - 2) Third Party Property: District identifies a property owned by a third party that it wishes to acquire during escrow, and if not...
  - 3) Trust Account Option: District acquire properties with Exchange Funds from Trust Account
- Property Acquired: Residential Apartments

# RFP Example – Exchange: Cypress School District

## District Revenue from Properties Acquired

- District receives quarterly checks from Property Manager as follows
  - Coast Apartments = \$320,000 in yearly income
  - Azure Apartments = \$120,000 in yearly income

**Total Yearly Income = \$440,000**

# Next Steps and Estimated Timeline

## 1. CDE Approve Waiver

- Legal Counsel will work with CDE to get waiver on agenda for 9/12/19 Board meeting

## 2. Release RFP to Public

- As soon as waiver is approved by CDE Board (9/12/19)

## 3. Set Deadline for RFP Responses

- Usually recommend 60-90 days to allow parties to receive RFP and review the Property (12/1/19)

# Next Steps and Estimated Timeline

## **4. Staff Review Proposals and Negotiate**

- Staff can rank proposals and then negotiate with top proposals to identify best options for District  
(12/12/19)

## **5. Present Results to Board for Approval**

- Staff can rank top proposals based on negotiations for Board consideration and selection in January 2020

# Next Steps and Estimated Timeline

## 6. Right of First Refusal

- District agreements with prior owners include “Right of First Refusal” clauses
- If District sells property, District must notify the former owners of the terms and conditions of the sale
- Former owners then have 30 days to notify the District of their desire to purchase the property under same terms and conditions.

# Next Steps and Estimated Timeline

## 7. Escrow/Option Period

- Long escrow/option period begins (TBD)
- RFP will require proposers to discuss their election strategy regarding Proposition A which will be include in timeframe for closing

# Questions



Exhibit

D



# California State Board of Education November 2019 Agenda Item #W-04

## Subject

Request by **four local educational agencies** to waive California *Education Code (EC)* sections specific to statutory provisions for the sale or lease of surplus property.

## Waiver Numbers

- Lakeside Union Elementary School District: 9-8-2019
- Napa Valley Unified School District: 12-7-2019
- Poway Unified School District: 9-7-2019
- San Diego Unified School District: 7-8-2019

## Type of Action

Action, Consent

## Summary of the Issues

The Lakeside Union Elementary School District (Lakeside Union ESD) is requesting to waive portions of California *EC* Section 17472, which will allow the district to maximize the return on the sale of one piece of property in a manner that best serves its schools and community.

The Napa Valley Unified School District (Napa Valley USD) is requesting to waive all of California *EC* sections 17473 and 17474, and portions of 17455, 17466, 17469, 17472, and 17475, which will allow the district to maximize the return on the sale of one piece of property in a manner that best serves its schools and community through the Request for Proposal (RFP) process, maximizing the benefit from the sale.

The Poway Unified School District (Poway USD) is requesting to waive all of California *EC* sections 17473 and 17474, and portions of 17455, 17466, 17468, 17470, 17472, and 17475, which will allow the district to maximize the return on the sale or lease of one piece of property in a manner that best serves its schools and community through the RFP process, maximizing the benefit from the sale or lease.

The San Diego Unified School District (San Diego USD) is requesting to waive all of California *EC* sections 17472, 17473, and 17474, and portions of 17455, 17466, 17468, 17469, and 17475, which will allow the district to maximize the return on the lease of one piece of property.

## Authority for Waiver

California *EC* Section 33050

## Recommendation

- Approval: No
- Approval with conditions: Yes
- Denial: No

The California Department of Education (CDE) recommends approval with the following conditions: that the proposal the districts' governing boards determine to be the most desirable shall be selected within 60 days of the public meeting where the proposals were received, and that the reasons for those determinations be discussed in public session and included in the minutes of the meeting.

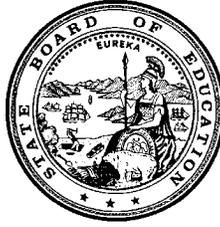
## Summary of Key Issues

Under provisions of *EC* Section 33050, the districts are requesting that specific portions of the *EC* relating to the sale or lease of surplus property be waived.

### Poway USD

Poway USD requests that the specified *EC* sections be waived in order to allow the district to maximize the return on the sale or lease of one piece of real property identified as APN Nos. 312-293-11-00, 306-250-27-00, and 306-020-32-00, and collectively known as the Black Mountain Ranch Southern Site, in a manner that best serves its schools and community. The site is vacant land and is made up of three parcels. The site has never been used for school purposes, but has been used for vehicle storage at various points in time, and the district's governing board has declared the property surplus. The district is open to either selling or leasing the property—depending on which will be more beneficial to the district—via the RFP process. The

district will work to develop a strategic plan for advertising and marketing the property in order to solicit proposals from parties interested in the property. The district will work closely with legal counsel to ensure that the process by which the property is sold or leased is fair and open.



# California State Board of Education Final Minutes November 6, 2019

## Members Present

- Linda Darling-Hammond, President
- Ilene W. Straus, Vice President
- Sue Burr
- Feliza I. Ortiz-Licon
- Kim Pattillo Brownson
- Patricia A. Rucker
- Niki Sandoval
- Ting L. Sun
- Brenna Pangelinan, Student Member
- Tony Thurmond, State Superintendent of Public Instruction (SSPI), Secretary and Executive Officer

## Member Absent

- Matt Navo

## Principal Staff

- Karen Stapf Walters, Executive Director, State Board of Education (SBE)
- Judy Cias, Chief Counsel, SBE
- Patricia de Cos, Deputy Executive Director, SBE
- David Sapp, Deputy Policy Director and Assistant Legal Counsel, SBE
- Janet Weeks, Director of Communications, SBE
- Carolyn Pfister, Education Administrator I, SBE
- Laila Fahimuddin, Policy Consultant, SBE

- Sara Pietrowski, Policy Consultant, SBE
- Pamela Castleman, Education Programs Consultant, SBE
- Amy Bubbico, Staff Services Manager I, SBE
- Lupita Cortez-Alcalá, Chief Deputy Superintendent, California Department of Education (CDE)
- Stephanie Gregson, Deputy Superintendent, CDE
- Khiem Jackson, Deputy Superintendent, CDE
- Sarah Neville-Morgan, Deputy Superintendent, CDE
- Stephanie Papas, Education Policy Administrator I, CDE
- Keith Yamanaka, Chief Counsel, CDE

**Please note that the complete proceedings of the November 6, 2019 State Board of Education meeting, including closed-captioning, are available online at:**

**<http://www.cde.ca.gov/be/ag/ag/sbewebcastarchive.asp>**

California State Board of Education  
Public Session November 6, 2019

**Wednesday – November 6, 2019 – 8:30 a.m. Pacific Time ±**

California Department of Education  
1430 N Street, Room 1101  
Sacramento, California 95814

- Call to Order
- Salute to the Flag
- Communications
- Announcements
- Report of the State Superintendent of Public Instruction
- Special Presentations
  - *Public notice is hereby given that special presentations for informational purposes may take place during this session.*
- Agenda Items
- Continuance

**President Darling-Hammond called the meeting to order at approximately 8:30 a.m.**

***REPORT OUT OF CLOSED SESSION***

President Darling-Hammond announced, in Closed Session the Board discussed and/or took action on the following case:

- *Ella T. v. State*

**Report of the State Superintendent of Public Instruction**

***AGENDA ITEMS DAY 1***

***WAIVERS ON CONSENT***

***(W-01 through W-04, and W-06 through W-07)***

**SALE OR LEASE OF SURPLUS PROPERTY (Lease of Surplus Property)**

**Item W-04**

**Subject:** Request by four local educational agencies to waive California *Education Code* (EC) sections specific to statutory provisions for the sale or lease of surplus property.

Waiver Numbers:

Lakeside Union Elementary School District 9-8-2019  
Napa Valley Unified School District 12-7-2019  
Poway Unified School District 9-7-2019

San Diego Unified School District 7-8-2019  
(Recommended for APPROVAL WITH CONDITIONS)

***ACTION ON WAIVER CONSENT ITEMS W-01 THROUGH W-04***

**ACTION:** Member Rucker moved to approve the CDE staff recommendations for each waiver item on consent (Item W-01 through W-04).

Member Sandoval seconded the motion.

**Yes votes:** Members Sandoval, Pangelinan, Pattillo Brownson, Sun, Darling-Hammond, Straus, Burr, Ortiz-Licon, and Rucker.

**No votes:** None

**Member Absent:** Member Navo

**Abstentions:** None

**Recusals:** None

Motion passed with 9 votes.

SCHOOL DISTRICT REORGANIZATION (Elimination of Election Requirement)

# Exhibit

E

# Poway Unified School District: Potential Lease, Sale or Exchange of Black Mountain Ranch Southern Property (Santaluz) **November 14, 2019**



## Presented by:

Andreas C. Chialtas  
AALRR

Dr. Barry Blade,  
Property Consulting  
for Schools



# Past PUSD Board Direction (8/8/19)

- 1) Work with CDE Waiver office to ensure waiver is considered by CDE Board at next meeting (November 6, 2019)
- 2) Prepare RFP seeking proposals from parties interested in leasing, purchasing, or exchanging Property

# CDE Board Meeting Update

- 1) Agenda to Include CDE Staff Recommendation
- 2) Usually, CDE Board Accepts Recommendation

# Summary of RFP Package

- 1) Introduction and Background
- 2) Summary of Property
- 3) General Qualifications of Respondent
- 4) Lease Requirements
- 5) Purchase Requirements
- 6) Exchange Requirements
- 7) Proposal Process

# Introduction and Background

- 1) District Authorized to Seek Lease, Purchase or Exchange Proposals
- 2) RFP Process Allows Flexibility to Consider Factors In Addition to Price
- 3) Respondents Can Submit Multiple Proposals

# Summary of Property

- 1) Description of Characteristics
  - 27.22 acres of vacant land
- 2) Proposition A Requirements
  - May require developers to seek voter approval
  - Respondents must determine specific requirements depending on development
- 3) Right of First Refusal
  - Prior owners must receive notice and 30 days to respond

# General Qualifications of Respondent

- 1) Help Determine if Respondent is “Viable”
  - Financial Qualifications
  - Bankruptcy?
  - Pending Litigation?
  - Credit Rating
- 2) Deposit
  - \$20,000
  - Returned to all proposers except selected proposer in order to pay for District negotiation and document drafting costs

# Proposal Lease “Requirements”

- 1) Proposed Rent Payments (and escalations)
- 2) Deposit Structure
- 3) Lease Term (extension options)
- 4) Proposed Development
- 5) How Returned to District (with structures?)
- 6) Due Diligence / Option Period
- 7) Requirements for Proposed Development
  - Government Approvals
  - Physical Changes & Effect on Neighboring Community

# Proposal Purchase “Requirements”

- 1) Purchase Price
- 2) Due Diligence / Closing Periods
- 3) Deposit Structure
- 4) Proposed Use
- 5) Requirements for Proposed Development
  - Government Approvals
  - Physical Changes & Effect on Neighboring Community

# Proposal Exchange “Requirements”

- 1) Cannot Exchange with Public Agencies
- 2) Identify Offered Properties or Process to Identify
- 3) Establish Value is Relatively Comparable to District Property Value
- 4) Otherwise Similar Requirements as Purchase

# RFP Timeline

- 1) Questions Deadline: 1/13/20
- 2) District Posts Answers: 1/20/20
- 3) Proposals Due: 2/3/20
- 4) District Staff Negotiate with Top Proposals
- 5) Present Rankings to Board: 3/12/20
- 6) Board Identifies Selected Proposal:  
3/12/20
- 7) District Negotiates Agreement with Finalist
- 8) Submit Terms to Prior Owners
- 9) Execute Final Agreement

# Next Steps

- 1) Authorize Release of RFP
  - Assuming CDE Approval & Confirmation
  - Post on District Website
  - Send to List of Developers
- 2) Receive and Answer Questions
- 3) Receive Proposals
- 4) Identify Top Proposals and Present to Board

# Questions



# Exhibit

# F

POWAY UNIFIED SCHOOL DISTRICT

**REQUEST FOR PROPOSALS FOR THE  
LEASE, PURCHASE OR EXCHANGE OF SCHOOL  
DISTRICT  
SURPLUS REAL PROPERTY**

**Real property located at  
the intersection of Carmel Valley Road and Camino Del Sur  
within the incorporated area of the city of San Diego**

Dated: November 19, 2019

## **I. INTRODUCTION AND BACKGROUND**

The Poway Unified School District is seeking proposals from qualified parties (“Respondents”) who are interested in leasing, purchasing, or exchanging other property for, approximately 27.22 acres of vacant land located at the intersection of Carmel Valley Road and Camino Del Sur within the incorporated area of the city of San Diego (“Property”), as more particularly identified in the legal description and map depiction attached hereto as Exhibit “A.”

The District previously appointed a Surplus Property Advisory Committee to advise the District’s Board of Education in the development of District-wide policies regarding the use or disposition of District property not needed for school purposes. The Advisory Committee recommended declaring the Property surplus and disposing the Property as set forth herein.

The Education Code requires the District to follow a specific procedure to sell or lease surplus property which includes a public competitive bid process. However, the District sought and received a waiver from the California Department of Education which allows the District to use an alternative “Request for Proposal” procedure in which the District seeks proposals from any party interested in purchasing or leasing the Property pursuant to the conditions set forth in the District’s Request for Proposal (“RFP”). As noted below, the Education Code also allows school districts to exchange its real property by offering to exchange specific property to another entity in exchange for the District acquiring new real property. The District will assess all proposals and determine the best options for the District, whether it be a lease, purchase, or exchange of the Property, as described below.

The District anticipates that following the less formal RFP process will allow the District to determine whether a lease, purchase, or exchange will better accommodate the needs of both the District and the interested party. Respondents are encouraged to submit a proposal to lease, purchase or exchange the Property in accordance with the requirements set forth herein, and may submit proposals for all options. The District will review all submitted proposals pursuant to the Proposal Process discussed below. If the District is able to reach an agreement with any of the Respondents, the specific terms and legal considerations of the agreement will be documented in a formal agreement to be entered into by the District and the successful Respondent.

**All proposals must be received by 2:00PM on February 3, 2020**  
**(the “Proposal Deadline”).**

## **II. THE PROPERTY**

The Property, in total, is approximately approximate 27.22 acres of vacant land located at the intersection of Carmel Valley Road and Camino Del Sur within the incorporated area of the city of San Diego. The Property is also identified as Assessor’s Parcels 306-020-32, 306-250-27 and 312-293-11.

Approximately 0.51 acres of the Property is zoned RS-1-15, and the remaining 26.71 acres is zoned AR 1-1, designated as a Middle School site in the Torrey Highlands and Black Mountain Ranch Subarea Plans.

The subject is located within two different subarea plans that are a part of the greater North City Future Urbanizing Area (NCFUA), namely, the Black Mountain Ranch Subarea Plan and the Torrey

Highlands Subarea Plan. The North City Future Urbanizing Area is comprised of separate subareas encompassing approximately 12,000 acres located between Interstate 5 and Interstate 15. Primary access to the area is provided by State Route 56, which runs in a general east-west direction and connects to Interstate 15 to the east and Interstate 5 to the west.

The northern portion of the site is a part of the Black Mountain Ranch Subarea Plan. This plan primarily consists of two separate developments, commonly referred to as Del Sur and Santaluz. Del Sur comprises the northern half of Black Mountain Ranch while Santaluz is in the southern half. Del Sur will ultimately contain over 3,050 housing units, retail services, office/professional uses and numerous parks and recreational services. Upon completion, Santaluz will have over 1,000 dwelling units with lots ranging in size from approximately 5,000 square feet to significantly larger estate lots that will be several acres in size. The Black Mountain Ranch Subarea Plan designates approximately 29 percent of the community for residential development, 67 percent for parks, and open space, 2 percent for schools, and 2 percent for commercial and employment uses.

The southern portion of the subject site is located within the Fairbanks Highlands area of the Torrey Highlands Subarea Plan. Also located within the Torrey Highlands area are the communities of Pacific Highlands Ranch and Del Mar Mesa. The Torrey Highlands Subarea Plan (Subarea IV) was adopted by the City of San Diego in 1996 and consists of approximately 1,134 acres, not including the Fairbanks Highlands area. The planning principals adopted by the plan include both regional planning as well as balanced land use. It outlines the general framework for open space, streets, development boundaries, open space, design guidelines, community facilities and housing. The Subarea Plan limits the number of dwelling units to no more than 2,600. According to the City of San Diego, all of the dwelling units have been allocated. Overall, approximately 50 percent of Torrey Highlands was designated for residential development, 30 percent for open space and parks and eight percent for commercial related uses and employment centers. Approximately 12 percent of the land area was set aside for schools. More specifically, the subject site is located north of the intersection of Camino Del Sur and Carmel Valley Road. Both roads are considered to be major thoroughfares. A significant amount of land has been set aside as open space in both community plans. The subarea plans designate the subject site for use as a middle school with an underlying zoning designation of AR-1-1 (agricultural). The developed areas surrounding the subject have been primarily designated for residential use or open space, with a few sites developed with religious facilities.

The immediate neighborhood is primarily residential in character. Access to State Highway 56 is located a short distance south with a full interchange at Camino Del Sur and Highway 56. There are several schools located within a mile of the subject, including Adobe Bluffs Elementary School, Willow Grove Elementary School, Deer Canyon Elementary School, Mesa Verde Middle School and Westview High School. Neighborhood shopping is located off Camino Del Sur.

## **1. Proposition A Managed Growth Initiative**

Please note that the Property may be subject to the approval process required by the City of San Diego's Proposition A, known as the "Managed Growth Initiative." In summary, Proposition A is a voter-approved proposition that passed in 1985 any requires any change to the City's General Plan to be approved through a majority vote of the people voting at a City-wide election. The City's Policy No. 600-30 (the "Policy"), attached as Exhibit B for reference, explains the specific process used by the City to address the Proposition A zoning requirements. The District has not independently confirmed that the Proposition A approval process will be required for the Property. However, the District's initial analysis suggests it may apply to the Property, depending on the proposed development.

Specifically, the subject site is unique in that it is designated for use as a school site but carries the AR-1-1 zoning designation. An argument may be made that because the Property is essentially already approved as a school site, that a different institutional use should be approved through a discretionary process rather than a vote of the people. However, a definitive answer from City staff as to the development potential of the site has not been provided, and such an answer may require a specific use to be proposed and the discretionary review process started. Furthermore, many more likely development proposal concepts would likely require that the Prop A approval process be followed.

Information contained in this RFP regarding Proposition A, including Exhibit B, is provided for informational purposes only. All Respondents are solely responsible for determining how Proposition A, and the associated City Municipal Codes and any applicable law, apply to the Property and their proposed developments.

## **2. Right of First Refusal**

The District acquired the Property through Transfer Agreements that grant the prior owners (“Prior Owners”) a “Right of First Refusal” before the District can transfer ownership of the Property. Therefore, these Right of First Refusal provisions will apply to the purchase or exchange of the Property (but not a lease). The Rights of First Refusal are identical and, in summary, require the District to provide the Prior Owners with written notice of the terms of a potential Property transfer before completing the transfer of the Property to another entity. The Prior Owners then have thirty (30) days to acquire the Property based on the same terms and conditions. If the Owners do not exercise their option within this thirty (30) day window, the District may complete the transaction with the other entity under the same terms and conditions as announced to the Prior Owners.

The District will comply with this Right of First Refusal requirement by including a provision in the final agreement with the selected Respondent. Specifically, this provision will require the District to provide the required written notice to the Prior Owners and allow the District to terminate the agreement with the selected Respondent if either of the Prior Owners exercises their right to acquire the Property during the thirty (30) day period. In the alternative, the District, in its sole discretion, may elect to provide such notice to the Prior Owners immediately prior to entering into a final agreement with the selected Respondent. Finally, please note that the District and the selected Respondent cannot materially change the terms and conditions of their agreement once notice is provided to the Prior Owners because any such change(s) could re-invoke the Right of First Refusal provisions.

## **III. QUALIFICATIONS/ PROPOSAL REQUIREMENTS**

The District will consider proposals to: 1) purchase the Property pursuant to a purchase and sale agreement (“Purchase Agreement”), 2) lease the Property pursuant to a long term ground lease of the Property in a manner which allows for its development (a “Lease”), and/or 3) exchange the Property for another property identified by the Respondent, or to be identified at a later date by the Respondent and the District (“Exchange Agreement”). Therefore, Respondents may submit proposals seeking to acquire the Property through any or all of these options. The District shall review the submitted proposals and determine, at its sole discretion, whether to pursue a purchase, lease, or exchange of the Property (or any particular portion thereof) based on the responses received and in accordance with the process set forth herein. Proposals shall comply with the requirements established in this RFP.

## 1. GENERAL QUALIFICATIONS

All Respondents seeking to enter into a Purchase Agreement, Lease or Exchange Agreement for the Property must provide the following basic information:

1. Name and contact information of person/private business firm.
2. A statement of financial qualifications that includes the following information:
  - a. Is the Respondent a subsidiary of, or affiliated with, any other corporation, corporations, partnerships or firms? If so, please specify. If the Respondent is a subsidiary, please indicate the extent to which the parent entity will guarantee performance by the subsidiary.
  - b. Names and addresses of three financial references, including a primary bank.
  - c. Has the Respondent or its officers, principal members, shareholders or investors, or any of its parent, subsidiary or affiliated entities or other interested parties been adjudged bankrupt, either voluntary or involuntarily, within the past ten years? If so, explain.
  - d. Is there pending litigation against the Respondent entity or its officers, principal members, shareholders or investors, or any parent, subsidiary or affiliated entities or other interested parties other than minor personal injury suits involving claims under \$250,000? If so, explain.
  - e. Audited financial statements for the previous three years for the Respondent with whom the District will contract or, in the likely event that the contracting entity is a newly formed special purpose entity, the member or members of that entity who will be responsible for financial obligations and on whom the District should rely for financial performance whether or not the final formal documentation calls for guarantees.
  - f. Report from any financial credit rating service for the Respondent with whom the District will contract or, in the likely event that the contracting entity is a newly formed special purpose entity, the member or members of that entity who will be responsible for financial obligations and on whom the District should rely for financial performance whether or not the final formal documentation calls for guarantees.
  - g. Any other financial statements and/or other documents that would indicate acceptable financial standing and the ability of Respondent to fund the proposed lease of the Property.

Item(s) submitted should be sufficient to permit the District to determine the Respondent's financial capacity to fund the proposed lease, purchase, or exchange of the Property. The Respondent may wish to mark his/her financial statements, as "CONFIDENTIAL" or "PROPRIETARY." As such, it will be treated as confidential by the District to the extent permitted by law, as discussed in Section VI below.

3. All responses submitted must be accompanied by a cashier's check for \$20,000 payable to Poway Unified School District. All checks, except that received from the successful Respondent, shall be returned upon the selection of the successful Respondent. The check from the successful Respondent shall be retained by the District upon proposal selection by the Board, and such funds shall remain non-refundable to the successful Respondent and non-applicable to the transaction, as these funds are required to cover all or a portion of the District's costs to negotiate and draft a potential agreement.

## **2. REQUIREMENTS FOR LEASE PROPOSALS**

Respondents interested in leasing the Property shall provide the following information in addition to the General Qualification information discussed above.

The purpose of this RFP is to give Respondents the flexibility to submit proposals that will meet their specific needs. However, the following guidelines are provided to summarize the terms that the District would like to see within the lease agreement. Respondents will be required to enter into a lease agreement drafted by the District which will include the terms discussed herein and in Respondent's proposal. The District may consider all Respondents submitted pursuant to this RFP and, at its sole discretion, may enter into direct negotiations with any Respondent during which the terms and conditions of the lease may be negotiated to determine if the Parties can reach a mutually acceptable lease agreement. However, the following guidelines are provided to indicate the terms that the District is likely to accept and/or require.

- The District will give high priority to the Respondent offering the highest rent, both in terms of monthly rental payments as well as total payment over the term of the lease.
- Respondents should discuss how the property will be returned to the District at the end of the Lease including any special considerations the Respondent will provide, such as providing the District with new structures at the end of the Lease.
- Respondent must identify the total length of the lease term. The District is willing to consider any proposed term depending on the features of a particular proposal. The District is also willing to consider optional extension periods whereby the Respondent agrees to lease the Property for a certain initial term with the right (unilateral or mutual) to agree to one or more additional term(s) after the initial term expires.
- Respondent may request a "Due Diligence Period" to take any and all actions Respondent deems necessary to ensure the Property can be used for the Respondent's intended use. Respondent shall identify the total number of days required for the "Due Diligence Period" but the District may give special consideration to Respondents who seek a shorter Due Diligence Period to begin after execution of the Lease Agreement. During the Due Diligence Period, the Respondent may request access to the Property to conduct inspections, testing, and investigations on the Property to determine if the Property is acceptable. Respondent must describe the anticipated activities it will conduct on the Property to complete its inspection requirements and must confirm that it will return the Property to its original condition after its due diligence inspections. Respondents must acknowledge and consider that their access to the Property during the Due Diligence Period must be coordinated with the District, and Respondent must provide customary indemnification and insurance for such access and investigation.

- Respondents cannot rely on any statement or document provided by the District to assess the viability of the Property, and therefore must use the Due Diligence Period to conduct all investigations it deems necessary to assess the Property.
- If a Due Diligence Period is requested, Respondent shall also identify a Good Faith Deposit that will be provided to the District in consideration for the Due Diligence Period. Respondent may terminate the lease agreement during the Due Diligence Period for any reason. However, upon termination, the District shall keep the Good Faith Deposit. If Respondent does not terminate the lease agreement during the Due Diligence Period, the Good Faith Deposit shall be applied towards Respondent's rental payments. If Respondent requests the option to extend the Due Diligence Period beyond the initial period, it must also identify additional Good Faith Deposits that will be provided to the District if Respondent exercises the due diligence extensions.
- Respondent should identify the potential governmental agency reviews and approvals necessary for its anticipated use of the Property, including rezoning, conditional use permits, and any anticipated environmental review document. Respondent may request the District's assistance in obtaining any necessary approvals during the Due Diligence Period. However, such assistance shall not be mandatory and shall be provided at no cost to the District, whatsoever. Respondent must confirm that it will be solely responsible for obtaining any necessary approval for the Respondent's intended use of the Property.
- Respondent must describe in detail the anticipated use of the Property during the lease. The District will accept any use that complies with local zoning and all applicable regulations, including any and all proposed zoning/entitlement modification(s) anticipated by Respondent, but will give special positive consideration to any use that aids the local economy or provides a benefit to local community, and/or provides Respondent with a source of income that can be used to pay its Property rent obligations.
- Respondent must address how its intended use of the Property will impact the surrounding facilities and how such impacts will be mitigated by Respondent. Such considerations shall include all traffic and access issues related to the intended use, and how such proposed traffic and access will be accomplished (i.e., Respondent will note if acquisition of the Property is adequate for its purposes, or if other access easement(s), further transfer of acreage, or other shared use may be necessary to accomplish its goals with respect to its intended project).
- The District will consider any requests from Respondent to make physical changes to the Property after the Respondent executes the Lease ("Property Adjustments"). Respondent must agree to include a provision within the lease agreement indemnifying the District, and all District employees from any claim, harm, damage, or demand arising from any work performed on the Property at the request of the Respondent. The District is willing to cooperate with Respondent to accomplish any Property Adjustments Respondent deems necessary to ensure the Property meets its intended use. Respondent shall describe the work requested from the District in detail in its proposal.
- Respondent shall identify the insurance it will carry during the entire term of the lease agreement, which should include liability insurance for claims arising from the Respondent's use of the Property. The Proposal should identify the limits on its insurance coverages.

- Respondent shall confirm that it will be responsible for any hazardous material it uses on the Property during the lease agreement.
- Respondent may request the right to let, sublet or license the whole or portion of the Property (a “Sublet”) upon obtaining prior written consent of the District of the specific Sublet. However, Respondent must confirm that it will remain solely liable for all financial obligations established by the Lease Agreement if Respondent enters into any Sublet.
- The District’s fee interest in the Property shall not be subordinated at any time during the Lease.

### **3. REQUIREMENTS FOR PURCHASE PROPOSALS**

Respondents interested in purchasing the Property pursuant to a Purchase Agreement, shall provide the following information in addition to the General Qualification information discussed above.

The purpose of this RFP is to give Respondents the flexibility to submit proposals that will meet their specific needs. However, the following guidelines are provided to summarize the terms that the District would like to see within the Purchase Agreement. Respondents will be required to enter into a Purchase Agreement drafted by the District which will include the terms discussed herein and in Respondent’s proposal. The District may consider all Respondents submitted pursuant to this RFP and, at its sole discretion, may enter into direct negotiations with any Respondent during which the terms and conditions of the Purchase Agreement may be negotiated to determine if the Parties can reach a mutually acceptable agreement. However, the following guidelines are provided to indicate the terms that the District is likely to accept and/or require.

- The District will give high priority to the Respondent offering the highest purchase price. Proposals must state the total amount that the Respondent is willing to pay to acquire the Property.
- Respondent may request a “Due Diligence Period” to take any and all actions Respondent deems necessary to ensure the Property can be used for the Respondent’s intended use. Respondent shall identify the total number of days required for the “Due Diligence Period” but the District may give special consideration to Respondents who seek a shorter Due Diligence Period to begin after execution of the Purchase Agreement. During the Due Diligence Period, the Respondent may request access to the Property to conduct inspections, testing, and investigations on the Property to determine if the Property is acceptable. Respondent must describe the anticipated activities it will conduct on the Property to complete its inspection requirements and must confirm that it will return the Property to its original condition after its due diligence inspections. Respondents must acknowledge and consider that their access to the Property during the Due Diligence Period must be coordinated with the District, and Respondent must provide customary indemnification and insurance for such access and investigation.
- Respondents cannot rely on any statement or document provided by the District to assess the viability of the Property, and therefore must use the Due Diligence Period to conduct all investigations it deems necessary to assess the Property.

- If a Due Diligence Period is requested, Respondent shall also identify a Good Faith Deposit that will be provided to the District in consideration for the Due Diligence Period. Respondent may terminate the agreement during the Due Diligence Period for any reason. However, upon termination, the District shall keep the Good Faith Deposit. If Respondent does not terminate the agreement during the Due Diligence Period, the Good Faith Deposit shall be applied towards Respondent's purchase price. If Respondent requests the option to extend the Due Diligence Period beyond the initial period, it must also identify additional Good Faith Deposits that will be provided to the District if Respondent exercises the due diligence extensions.
- The District prefers a short escrow period. However, a longer escrow will be evaluated against deposit amounts, interest payments on the unpaid balance during escrow, and other financial and timing factors in the total context of the offer(s). The RFP response should identify the escrow timeframe sought by the Respondent after the Due Diligence Period, as well as the deposit and interest payments the Respondent is willing to pay.
- Respondent should identify the potential governmental agency reviews and approvals necessary for its anticipated use of the Property, including rezoning, conditional use permits, and any anticipated environmental review document. Respondent may request the District's assistance in obtaining any necessary approvals during the Due Diligence Period. However, such assistance shall not be mandatory and shall be provided at no cost to the District, whatsoever. Respondent must confirm that it will be solely responsible for obtaining any necessary approval for the Respondent's intended use of the Property.
- Respondent must describe in detail the anticipated use of the Property. The District will accept any use that complies with local zoning and all applicable regulations, including any and all proposed zoning/entitlement modification(s) anticipated by Respondent, but will give special positive consideration to any use that aids the local economy or provides a benefit to local community.
- Respondent must address how its intended use of the Property will impact the surrounding facilities and how such impacts will be mitigated by Respondent. Such considerations shall include all traffic and access issues related to the intended use, and how such proposed traffic and access will be accomplished (i.e., Respondent will note if acquisition of the Property is adequate for its purposes, or if other access easement(s), further transfer of acreage, or other shared use may be necessary to accomplish its goals with respect to its intended project).

#### **4. REQUIREMENTS FOR EXCHANGE PROPOSALS**

The District may exchange the Property in accordance with Education Code Section 17536 et seq. These sections provide that the governing board of a school district may exchange any of its real property for the real property of another person or private business firm. The District may not exchange property with another public agency. Said exchange may be upon the terms and conditions agreed to by the parties and need not comply with other Education Code provisions governing the disposal of surplus property.

Before ordering the exchange of real property the governing board must adopt, by a two-thirds vote of its members, a resolution declaring its intention to exchange the property. The resolution must describe the properties to be exchanged, including identifying information and the terms and conditions upon which they will be exchanged.

The District must obtain properties of similar value to the Property through the exchange agreement. Thus, Respondents must identify potential properties to be exchanged (the “Offered Properties”) for the District Property and demonstrate the value of the Offered Properties are of similar value to the District Property. The District, at its sole discretion, shall determine whether the Offered Properties meet the District’s needs. However, Respondents are encouraged to provide any and all information regarding the Offered Properties necessary to demonstrate their potential use and benefit to the District. Respondents may offer multiple Offered Properties. Furthermore, Respondents may structure proposals similar to a purchase proposal wherein the potential properties to be exchanged for the Property shall be identified by the Respondent and the District at a later date — including during the applicable escrow period.

Finally, a successful Respondent submitting any exchange proposal(s) will be required to enter into an Exchange Agreement drafted by the District, which will include the terms discussed herein and in Respondent’s proposal. The District may consider all Respondents submitted pursuant to this RFP and, at its sole discretion, may enter into direct negotiations with any Respondent during which the terms and conditions of the Exchange Agreement may be negotiated to determine if the Parties can reach a mutually acceptable agreement. However, the following guidelines are provided to indicate the terms that the District is likely to accept and/or require.

- The District will give high priority to the Respondent offering the highest exchange price. Proposals must state the total amount that the Respondent is willing to offer for the exchange of the Property, so that a value may be set for the Property and any identified exchange property (or exchange property to be identified at a later date).
- Respondent may request a “Due Diligence Period” to take any and all actions Respondent deems necessary to ensure the Property can be used for the Respondent’s intended use. Respondent shall identify the total number of days required for the “Due Diligence Period” but the District may give special consideration to Respondents who seek a shorter Due Diligence Period to begin after execution of the Exchange Agreement. During the Due Diligence Period, the Respondent may request access to the Property to conduct inspections, testing, and investigations on the Property to determine if the Property is acceptable. Respondent must describe the anticipated activities it will conduct on the Property to complete its inspection requirements and must confirm that it will return the Property to its original condition after its due diligence inspections. Respondents must acknowledge and consider that their access to the Property during the Due Diligence Period must be coordinated with the District, and Respondent must provide customary indemnification and insurance for such access and investigation.
- Respondents cannot rely on any statement or document provided by the District to assess the viability of the Property, and therefore must use the Due Diligence Period to conduct all investigations it deems necessary to assess the Property.
- If a Due Diligence Period is requested, Respondent shall also identify a Good Faith Deposit that will be provided to the District in consideration for the Due Diligence Period. Respondent may terminate the agreement during the Due Diligence Period for any reason. However, upon termination, the District shall keep the Good Faith Deposit. If Respondent does not terminate the agreement during the Due Diligence Period, the Good Faith Deposit shall be applied towards Respondent’s exchange price, if applicable. If Respondent requests the option to

extend the Due Diligence Period beyond the initial period, it must also identify additional Good Faith Deposits that will be provided to the District if Respondent exercises the due diligence extensions.

- The District prefers a short escrow period. However, a longer escrow will be evaluated against deposit amounts, interest payments on the unpaid balance during escrow, and other financial and timing factors in the total context of the offer(s). The RFP response should identify the escrow timeframe sought by the Respondent after the Due Diligence Period, as well as the deposit and interest payments the Respondent is willing to pay.
- Respondent should identify the potential governmental agency reviews and approvals necessary for its anticipated use of the Property, including rezoning, conditional use permits, and any anticipated environmental review document. Respondent may request the District's assistance in obtaining any necessary approvals during the Due Diligence Period. However, such assistance shall not be mandatory and shall be provided at no cost to the District, whatsoever. Respondent must confirm that it will be solely responsible for obtaining any necessary approval for the Respondent's intended use of the Property.
- Respondent must describe in detail the anticipated use of the Property. The District will accept any use that complies with local zoning and all applicable regulations, including any and all proposed zoning/entitlement modification(s) anticipated by Respondent, but will give special positive consideration to any use that aids the local economy or provides a benefit to local community.
- Respondent must address how its intended use of the Property will impact the surrounding facilities and how such impacts will be mitigated by Respondent. Such considerations shall include all traffic and access issues related to the intended use, and how such proposed traffic and access will be accomplished (i.e., Respondent will note if acquisition of the Property is adequate for its purposes, or if other access easement(s), further transfer of acreage, or other shared use may be necessary to accomplish its goals with respect to its intended project).

#### **IV. PROPOSAL PROCESS**

1. The District will begin accepting proposals upon date of issuance of this RFP, and will continue to accept proposals until the Proposal Deadline of **2:00pm on February 3, 2020**. Proposals must be submitted to the address set forth below. Respondents are solely responsible for ensuring their Proposals are received by the deadline set forth herein. All dates herein are subject to change at the sole discretion of the District.
2. Respondents may submit multiple alternative proposals to exchange, purchase or lease the Property. However, Respondents must clearly establish the terms and conditions applicable to their proposed agreements.
3. Proposals shall include ten (10) copies of the proposal along with any exhibits, colored pages, brochures or other marketing materials are to be included. Respondents submitting fewer than ten (10) copies may be considered "non-responsive."
4. All Proposals should be verified before submission. Adjustments will not be permitted after submission to the District. The District will not be held responsible for any errors or omissions on the

part of the Respondent in the preparation of their Proposal. The District reserves the right to reject any and all submittals, or to waive any irregularities or information in the submittals. As noted above, the District further reserves the right to further negotiate with some, any, or all of the Respondents to establish the specific terms of the agreement to lease, purchase, or exchange the Property.

5. Proposals may be mailed or delivered to the address listed at the end of this RFP. All proposals shall be sealed and clearly marked: "Poway Unified SD Property Proposal." Respondents shall be solely responsible for ensuring its proposal arrives to the District by the deadline set forth above. The District shall not be responsible for any issues with mail delivery or circulation.

6. Telephone or electronic submittals will not be accepted.

7. Any costs incurred by the Respondents in the preparation of any information or material submitted in response to this RFP shall be the sole responsibility of the Respondent. The District will not pay for any broker's commission and/or finder's fee incurred by the Respondent applicable to the Property.

8. The District reserves the right to reject any and/or all responses, refuse to negotiate or to withhold the award of any contract for any reason. The District may also waive or decline to waive irregularities in any Proposal.

9. The District may begin negotiations with selected Respondents at the District's discretion. If negotiations are successful, the District's Board may invite one or more Respondents to present its/their proposal(s) to the Board.

10. Upon selection of a Respondent, the District shall provide an agreement for negotiation by the Parties which will set forth the terms of the Lease, Purchase Agreement, or Exchange Agreement. The District reserves the right to terminate this process at any point prior to the selection of the successful Respondent and solicitation of proposals in no way obliges the District to proceed with any transaction.

## **V. PUBLIC NATURE OF PROPOSAL MATERIAL**

Responses to this RFP become the exclusive property of the District. All Proposals received in response to this RFP become a matter of public record and shall be regarded as public records, with the possible exception of those elements in each proposal as follows: Proposers may mark portions of their response which are defined by the Proposer as business or trade secrets and plainly marked as "Confidential," "Trade Secret," or "Proprietary"; however, the District does not guarantee that any information so marked will be protected from public disclosure. Proposers recognize that the District, as a public agency, is subject to disclosure requirements of the California Public Records Act. Any Proposal which contains language purporting to render all or significant portions of the proposal "Confidential," "Trade Secret," or "Proprietary" shall may be rejected or regarded as non-responsive.

Although the California Public Records Act recognizes that certain confidential trade secret information may be protected from disclosure, the Poway Unified School District shall not be in a position to establish that the information contained in any Proposal is a trade secret. If a Public Records Act request is made for information marked "Confidential," "Trade Secret," or "Proprietary,"

the District will provide the entity making the Proposal in question with reasonable notice before releasing the information. However, the District will comply with its Public Records Act requirements unless the entity making the Proposal seeks and obtains protection from disclosure by a court of competent jurisdiction.

## **VI. RECEIPT OF PROPOSALS; CONTACT INFORMATION**

Proposals shall be received by, and additional information may be obtained from, the following “District Contacts”:

Andreas C. Chialtas  
Atkinson, Andelson, Loya, Ruud & Romo  
12800 Center Court Drive, Suite 300  
Cerritos, CA 90703  
(562) 653-3460  
achialtas@aalrr.com

Dr. Barry Blade  
Property Consulting for Schools  
1431 Cerritos Drive  
Laguna Beach, CA 92651  
(949) 290-4132  
barryblade@me.com

Any questions regarding the Property or the RFP process must be emailed to the District Contacts pursuant to the requirement of the Questions section below.

All RFP responses must also be addressed and delivered to the District Contacts by the Proposal Deadline at the address above, through hand delivery or mail. The District is not responsible for any problems or issues with the mail delivery system and therefore, Respondents must take all acts necessary to ensure the delivery of the RFP response. All correspondence with the District Contracts should be done in writing: Any oral statement made to or by the District Contacts shall not be considered part of the RFP and shall in no event bind the District.

## **VII. QUESTIONS**

Any party who has questions about the Property may submit questions in writing to the District via email at **achialtas@aalrr.com** or **barryblade@me.com** to the District Contacts above. The District shall respond to all questions submitted on or before 5:00 PM on January 13, 2020 in writing via an addendum which will be posted on the District’s website at

<https://www.powayusd.com/PUSD/media/Communications/2019/Request-For-Proposal-Black-Mountain-Ranch-Southern-Property.pdf>

The District’s addendum will be posted on or before 5:00 PM on January 20, 2020. The District shall not provide responses to any oral questions and any oral statement made by any person shall not be construed as part of the District’s RFP package.

## **VIII. CONDITIONS AND LIMITATIONS**

This RFP does not represent an offer or commitment by Poway Unified School District to enter into an agreement with a Respondent or to pay any costs incurred in the preparation of a response to this request. The proposal and any information made a part of the proposal will not be returned to Respondent.

Respondent may request that the District provide certain representations and warranties regarding the District's ownership of the Property, including warranty that the District holds fee title in and to the Property without competing claims to possession. However, Respondent must take sole responsibility for conducting all the inspections necessary to determine that the Property is suitable for the Respondent's intended purpose.

The Respondent shall not collude in any manner or engage in any practices with any other Respondent (s) that may restrict or eliminate competition or otherwise restrain trade. Violation of this instruction will cause the Respondent's submittal to be rejected by the District. The prohibition is not intended to preclude joint ventures or subcontracts that are identified in the proposal.

The District has sole discretion and reserves the right to reject any and all proposals received with respect to this RFP and to cancel the RFP at any time prior to entering into an agreement for the lease, purchase or exchange of the Property. It should be noted explicitly that there is no "bidding" process intended with this submission review process, and this invitation is not an offer by the District to enter into an agreement to negotiate or any other agreement, nor is a response by an interested party to be considered as an offer that may be accepted by the District. Neither the District nor any Respondent will be bound to any agreement unless that agreement is in writing, approved by the District's Board, and executed by both the interested party and an official authorized by District.

The District reserves the right to request clarification of the RFP or additional data without changing the terms of the RFP. The District reserves the right to reject any response or all responses, to terminate discussions and to select any party with whom to deal, whether or not that party has responded to this RFP. The District may entertain or make a proposal that may not conform to this RFP and may adopt terms that may have been proposed by a party not selected. Decisions of the District may be based on subjective as well as objective evaluations.

**EXHIBIT "A"**

**LEGAL DESCRIPTION, MAP DEPICTIONS, AND PHOTOGRAPHS OF PROPERTY**

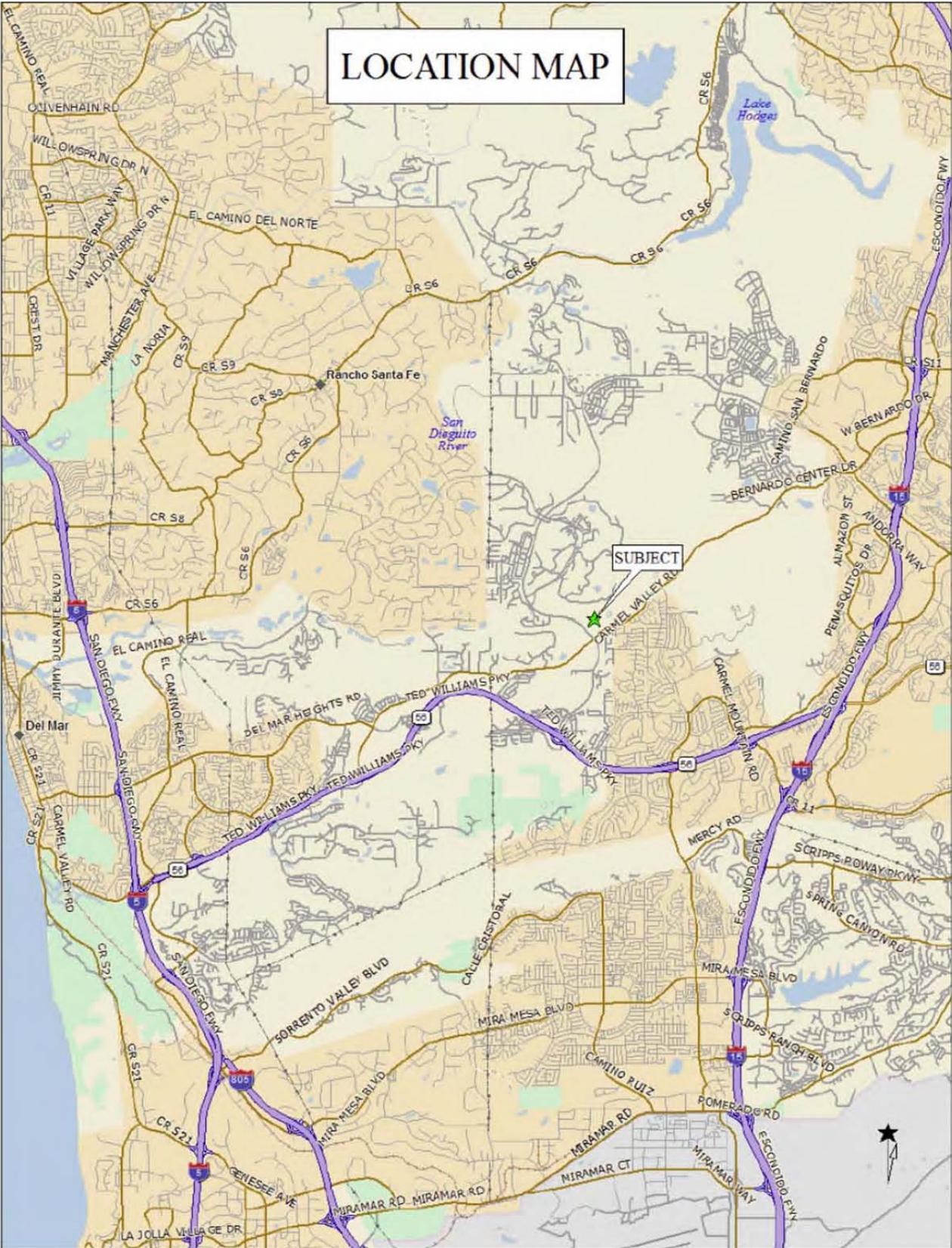
Legally be described as follows:

APN 306-020-32: Lot 94 of Fairbanks Highlands, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 13796, filed in the Office of the County Recorder of San Diego County June 3, 1999.

APN 306-250-27: That portion of Lot 2 of Olive Grove Tract, together with the unnamed County Road, in the City of San Diego, State of California, according to Map thereof filed in Book 24, Page 297 of Miscellaneous Records of the Office of the County Recorder of San Diego County lying Northerly of that parcel of land granted to the City of San Diego per deed recorded April 1, 1998 F/P No. 1998-0180426 O.R. in the Office of the County Recorder of San Diego County.

APN 312-293-11: Parcel 6 of Parcel Map 17996, in the City of San Diego, County of San Diego, State of California, according to Map thereof, filed in the Office of the County Recorder of San Diego County March 11, 1998.

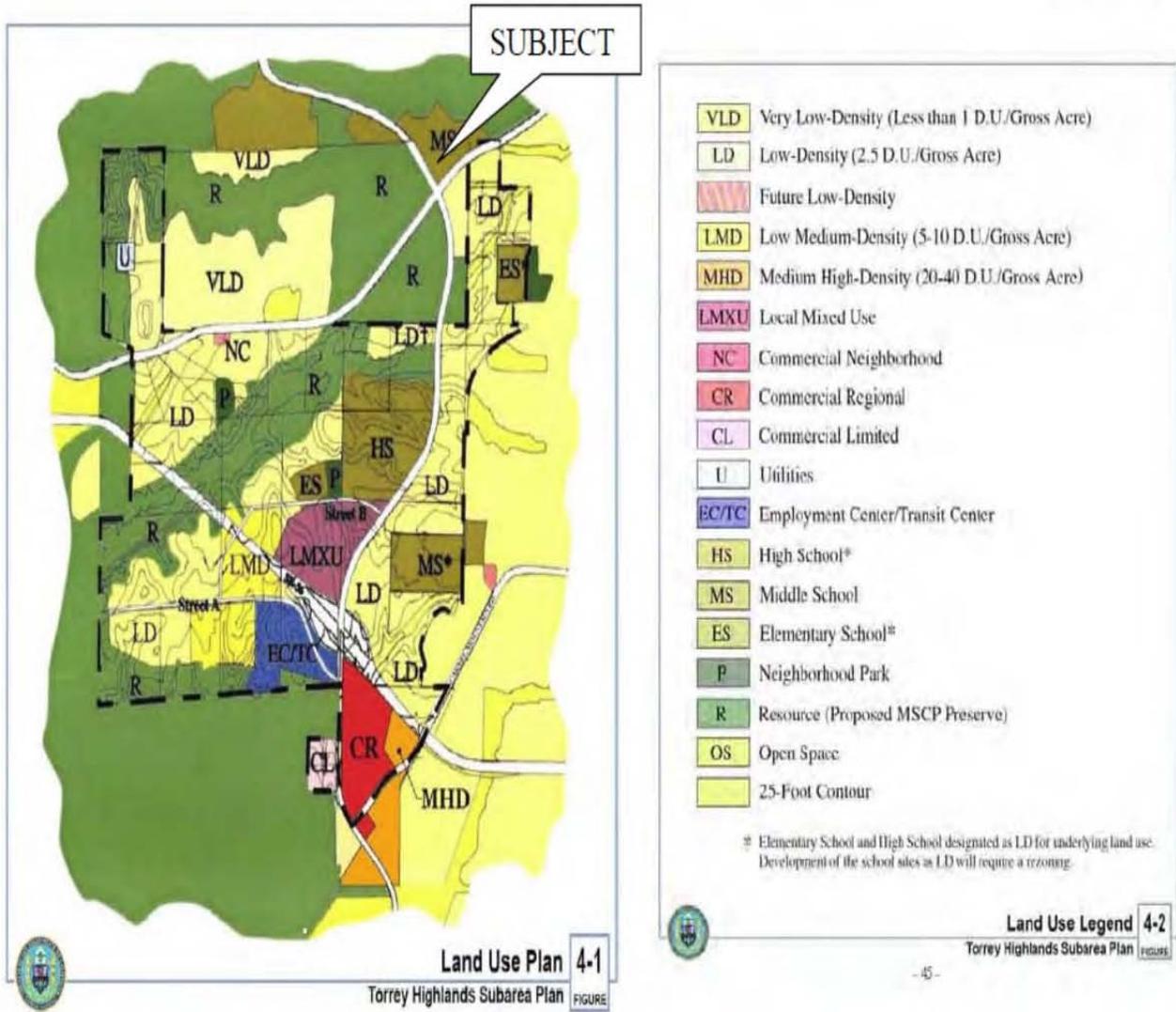
Map location of Property:



Outline location of Property:



Land Use Map of Property:



Arial photograph of Property:



Aerial photograph delineating the subject property.

Photographs of Property:



Looking in a general northerly direction from near the southernmost corner of the property.



Looking in a southwesterly direction across a portion of the subject property. Carmel Valley Road is visible in the left hand side of the photo.

**EXHIBIT "B"**

**CITY OF SAN DIEGO COUNCIL POLICY**

SUBJECT: GENERAL PLAN AMENDMENTS TO SHIFT LAND FROM FUTURE  
URBANIZING TO PLANNED URBANIZING AREA  
POLICY NO.: 600-30  
EFFECTIVE DATE: October 26, 1993

**BACKGROUND:**

The residential growth management program (see Progress Guide and General Plan, “Guidelines for Future Development”) is premised upon the division of the City into three planning areas: Urbanized, Planned Urbanizing, and Future Urbanizing, each of which is characterized by certain planning factors and each of which interrelates with the other areas. Existing City policies specify the characteristics of and the objectives to be achieved in each of these areas. See e.g., Council Policy No. 600-28 — “Requirements for Development Approval in Planned Urbanizing Areas” and Council Policy No. 600-29 — “Maintenance of Future Urbanizing Areas as an Urban Reserve.”

The delineation of these three areas is not static. Thus, as developing communities build out completely and stabilize, they may assume more of the characteristics of the Urbanized rather than the Planned Urbanizing area, and a shift may be in order. Similarly, as the Planned Urbanizing area is built out and additional land needs to be made available for development, it will be necessary to shift land from the Future Urbanizing to the Planned Urbanizing area to accommodate the demand for growth.

Most land shifts will be made as part of the City’s five year general plan update. In exceptional situations, however, the Council may, on its own motion or on petition by a property owner, consider land shifts during the interim period between plan updates.

As a result of voter approval of Proposition A (Managed Growth Initiative) at the election on November 5, 1985, any shift from Future Urbanizing area as the same existed in the Progress Guide and General Plan on August 1, 1984 to another designation must be approved by the voters.

**PURPOSE:**

The purpose of this Council Policy is to specify the guidelines and requirements for effecting a shift of land from the Future Urbanizing to the Planned Urbanizing area in accordance with the Progress Guide and General Plan. This policy applies to all such shifts of land prior to General Plan Amendment.

**POLICY:**

- A. No land shall be shifted from the Future Urbanizing area as the same existed in the Progress Guide and General Plan on August 1, 1984 to the Planned Urbanizing Area except by a General Plan Amendment approved by the City Council and approved by majority vote of the people voting on the shift at a City-wide election thereon.
- B. Once land is shifted to the Planned Urbanizing area, rezoning and/or any subsequent development approval shall be in accordance with otherwise applicable requirements,

including Council Policy No. 600-28 — “Requirements for Development Approval in Planned Urbanizing Areas.”

- C. General Plan amendments to effect a shift of land from the Future Urbanizing to the Planned Urbanizing Area shall be initiated by the City on its own motion or by a property owner.
- D. Threshold Determination
  - 1. When a property owner seeks a general plan amendment, the property owners shall apply for such an amendment on forms prescribed by the City.
  - 2. The property owner’s application shall be forwarded to the City Council for a threshold determination as to whether, following more detailed review, there is a reasonable basis for applying a substantive review of the application to the land in question, without prejudice to the Council’s ability to grant or deny said application upon final substantive review. General Plan amendments are exempt from the threshold determination requirement provided that they are consistent with an adopted land use plan which has been determined by Council to satisfy any of the findings specified below. In the case of the North City Future Urbanizing Area, the North City Future Urbanizing Area Framework Plan, as approved by the Coastal Commission on May 14, 1993, is applicable. The application would proceed directly to the Planning commission for substantive review and recommendation to Council.

A reasonable basis for applying a substantive review of the application of this policy to the land in question shall exist if the City Council finds, based on the information provided to it, that:

- a. The amendment may be needed to provide additional land for development, based on the City monitoring of the amount, rate, character and location of growth and development or in order to maintain a viable market;
  - b. The amendment may be responsive to population and growth rates which demand increased land availability;
  - c. Due to the limited size of the area in question and the nature of the proposed development, the amendment may not contribute to, encourage or induce urban sprawl, leapfrog development or premature development of land;
  - d. The amendment may provide the City with substantial and unique public benefits.
- 3. If the City Council makes any of the findings specified in paragraph D.2. above, the Council shall refer the amendment to the Planning Commission for substantive review pursuant to the provisions of this Policy. If the Council does not make any of the above findings, the application shall be denied.
  - 4. In making its threshold determination, the Council may allow the applicant to make an oral presentation. The Council may also request the preliminary views of staff regarding the merits of the application.

**E. Further Evaluation**

1. If the Council refers an application back to the Planning Commission for more detailed review, a community, specific or precise plan for the area shall be prepared to be adopted concurrently with the General Plan amendment. This plan is intended to provide supporting information to the voters regarding future land use if the General Plan amendment is approved.
2. The application and associated land use plan shall be evaluated by staff, which shall prepare a Planning Report, including an evaluation of the applicable paragraphs (G, H, and/or I) of this Council Policy, and be subject to environmental review.
3. Following staff review, the application shall be forwarded along with the findings of the Planning Report and the environmental document, to the Planning Commission for review and recommendation.
4. The Planning Commission's recommendations shall subsequently be forwarded to the City Council for review and action.
5. The determination of the City Council shall be legislative in nature, and the Council shall retain complete discretion to grant or deny said application, based upon the factors set forth in this Council policy.

**F. Election**

1. Following City Council approval of said application, the General Plan Amendment shall be brought before the voters for final action. The election procedure for the General Plan Amendment shall be referred to the Rules Committee for review and comment prior to City Council action to place the Amendment on the Ballot of a City-wide election. The General Plan Amendment shall be effective only after it is approved by majority vote of the people voting on the shift at a City-wide election thereon.
2. Election options for submittal of an amendment to the voters include placing the measure on the ballot at
  - a. Municipal elections held in September or November of the odd-numbered years provided the election includes the entire City electorate. (Charter Section 10)
  - b. Statewide primary or Statewide general elections held in June and November, respectively, in the even-numbered years. (Elections Code Sections 2550 and 2551)
  - c. Special elections called to be held at dates other than the scheduled dates of (a) or (b), above. (Muni. Code Section 27.2005)
3. The cost of placing an applicant's measure on the ballot for voter approval at the Statewide primary or Statewide general elections shall be borne by the City.

4. If an applicant opts to pay the cost of placing a measure on the ballot of a municipal elections of the entire City electorate in odd-numbered years, or pay the cost of a special election, 2(c) above, Council may order the measure to be voted on at such election. The applicant shall deposit the estimated cost with the Auditor and Comptroller no later than five (5) business days before the date on which the Council is scheduled to adopt the ordinance calling the election on which the measure is to appear. The City shall apply the funds as necessary in making advance payments to the Registrar of Voters in compliance with the Board of Supervisor's advance payment policy for elections. If actual costs exceed the estimate, the applicant shall be billed the difference. Any deposited amounts that exceed actual costs shall be reimbursed.
- G. Proposed amendments shall be classified as "incremental" or "substantial" based upon an evaluation of the following factors:
1. Amount of land involved;
  2. Contiguity to Planned Urbanizing area and character of that area;
  3. Relationship to contiguous Planned Urbanizing area;
  4. Ability to be serviced by facilities and utilities extended from Planned Urbanizing area;
  5. Access;
  6. Environmental impact;
  7. Type and density of land uses proposed;
  8. Fiscal and economic impact; and
  9. Effect on prime agricultural land.
- H. If based upon the above-mentioned classification, the proposed amendment is characterized as "incremental," findings shall be made as to the following:
1. The extent to which the amendment will contribute to, encourage or induce urban sprawl, leapfrog development or premature development of land;
  2. The extent to which the amendment will affect prime agricultural land;
  3. The consistency of the amendment with adopted General Plan policies and guidelines;
  4. Whether the subject area can logically be developed pursuant to existing policies applicable to the Planned Urbanizing area; and
  5. The extent to which the proposed amendment serves to achieve or furthers other adopted City policies and objectives, which policies and objectives shall be specified.

- I. If based upon the above mentioned classifications, the proposed amendment is characterized as “substantial,” findings shall be made as to each of the factors listed above (Section H), as well as the following:
1. The extent to which the amendment is needed to provide additional land for development, based upon City monitoring of the amount, rate, character and location of growth and development;
  2. The extent to which the amendment is responsive to population and growth rates which demand the increased land availability for development in order to maintain a viable market;
  3. The extent to which the amendment will impact on development in the Urbanized and Planned Urbanizing areas;
  4. Whether the City can efficiently and economically provide, operate and maintain public facilities, utilities, and services to the subject area;
  5. Whether the amendment will result in increased air or water pollution or increased traffic congestion; and
  6. The consistency of the amendment with established state and federal urban policies.

**HISTORY:**

Adopted by Resolution R-254648 07/20/1981  
Amended by Resolution R-259846 12/13/1983  
Amended by Resolution R-259983 01/17/1984  
Amended by Resolution R-264708 12/16/1985  
Amended by Resolution R-280786 10/01/1992  
Amended by Resolution R-282900 10/26/1993

Exhibit

G



**Poway Unified School District**

# **Santaluz Town Hall Meeting**

## **March 2020 General Obligation Bond and Community Facilities District No. 4**

**Presented by:**

**Ron Little, Associate Superintendent for Business Support Services**

**Rheia Alschbach, Assistant Director, Planning**

**January 22, 2020**

# Southern Middle School Site (Santaluz Middle School Site)

May 2012 –

- Real Property Advisory Committee's report to the Board of Education determined the site as surplus

November 2019 –

- California Department of Education approved the District's waiver request to use the Request for Proposal process to seek disposition options vs the traditional competitive bid process
- Board of Education approved the District issue a Request for Proposal for the potential lease, sale or exchange to dispose of the site

# Disposition Options

- Ground Lease
  - Retain ownership
  - Planned Use
  - Monthly lease payments
  - Use of proceeds not restricted (proceeds held in General Fund or other Board approved Fund)
  - Improvements acquired by District after lease termination
- Sale
  - Does not retain ownership
  - Lump sum payment
  - Use of proceeds restricted (capital outlay expenses)
- Exchange
  - No loss of property value
  - Possibility to generate income for District
  - No bidding required
  - Use of proceeds not restricted

Prior to accepting any offer, the original land owners (Fairbanks Highland LLC, Black Mountain Ranch LP and Santaluz LLC) have a Right to First Refusal. Any offer received by the District will be shared with the owners.

# Benefits of RFP versus Competitive Bid Process

- Bid is the “Standard” process required by the Education Code
- Bid requires Districts to award a lease or sale agreement to the highest bidder
- Bid process does not allow negotiations with interested parties, but instead Districts must establish the terms of lease or sale and assess bids based only on total price
- RFP grants flexibility, ability to negotiate with interested parties, and option to consider both lease and sale (or exchange) concurrently to select best overall option

# Exhibit

# H



**POWAY UNIFIED SCHOOL DISTRICT  
MINUTES OF THE BOARD OF EDUCATION  
AT A REGULAR MEETING**

**August 13, 2020**  
District Office Community Room

The Board of Education met in the Community Room with COVID-19 physical distancing measures in place for Board Members and Staff. Due to the physical distancing requirements, members of the public still needed to submit comments online as indicated in the agenda; the intent was not to limit public participation but to protect public health by following the recommended guidelines and San Diego County's order limiting attendance at public assemblies.

**CLOSED SESSION**

Board President Michelle O'Connor-Ratcliff called the meeting to order at 4:01p.m. to receive public comment on the closed session agenda items. There were no public comments, and all Board members convened to closed session in the Board Conference Room with the exception of Kimberley Beatty who was absent for closed session. The closed session was adjourned at 5:45 p.m., and Board members reconvened in the Community Room to begin their regular meeting and relay any reportable action taken during closed session – Board Member Kimberley Beatty attended via phone.

**REGULAR MEETING**

**1.0 CALL TO ORDER – PUBLIC SESSION**

**2.0 CLOSED SESSION**

- 2.1 Pending/Existing Litigation Pursuant to Government Codes 54954.5, 54956.9, 54956.9(a), 54956.9(d)(2), or (3), 54956.9(d)(1), or (4), and 54956.9(e)(3)**
  - a. Case No. 2020030729**
  - b. Case No. 2020050109**
  - c. Case No. 2020050243**
- 2.2 Conference with Legal Counsel Anticipated Litigation Pursuant to Government Code 54954.5, 54956.9, 54956.9(d)(2), or (3), and 54956.9(d)(4), 54956.9(e)(2)-(5), 54957, and 54957.1**
- 2.3 Pupil Personnel – Student Expulsion(s), Disciplinary Matter(s), and Other Confidential Student Matters Pursuant to Education Code 35146, 48900(c), 48912, 49070, and 54957**
  - a. Case No. 2019-2020.15 – Readmission**
- 2.4 Negotiations – PFT, PSEA Unit I and Unit II, Management/Confidential Pursuant to Government Codes 54957.6**
- 2.5 Public Employee Discipline/Dismissal/Release/Reassignment/Resignation/Nonelection Pursuant to Government Codes 54954.5(e), and 54957**

- 2.6 Public Employee Appointment/Employment Pursuant to Government Code 54957
  - a. **Director II, Special Education**
  - b. **Director of Purchasing**
  - c. **Superintendent Evaluation and Goals**
- 2.7 Conference with Real Property Negotiator Pursuant to Government Code 54956.8
  - a. **Real Property:** Approximately 27.22 acres of vacant land located at the intersection of Carmel Valley Road and Camino Del Sur; APNs 306-020-32, 306- 250-27 and 312-293-11 (“Property”).  
**Negotiating Parties:** Poway Unified School District, real property negotiators Ron Little, Associate Superintendent, Business Support Services and District legal counsel (Proposed Lessor/Seller/Exchangor), and an unidentified number of potential lessees, buyers or exchangees for the Property which may lease or acquire all or a portion of the Property through request for proposal processes (Proposed Lessee(s)/Buyer(s)/Exchangee(s)).  
**Under Negotiation:** Instruction to negotiators will concern price and terms of payment and other issues associated with possible lease and/or sale of all or part of the identified Property.

**3.0 RECONVENE / CALL TO ORDER AND PLEDGE OF ALLEGIANCE**

- 3.1 Board President Michelle O’Connor-Ratcliff reconvened the meeting in Public Session at 6:04 p.m. and led the salute to the flag. Board President Michelle O’Connor-Ratcliff requested a moment of silence in honor and memory of Jerry Wilson, Health Tech at Twin Peaks, who passed away.
- 3.2 **Report Out of Closed Session**
  - 2.1-a: Clerk Zane reported that in the matter of Pending/Existing Litigation, **Case No. 2020030729**, on a motion by Dr. Patel and a second by Mrs. Couvrette, the Board voted to approve the final settlement. *Ayes: O’Connor-Ratcliff, Couvrette, Zane, and Patel. Absent: Beatty. Motion carried, 4-0.*
  - 2.1-b: Clerk Zane reported that in the matter of Pending/Existing Litigation, **Case No. 2020050109**, on a motion by Dr. Patel and a second by Mrs. Couvrette, the Board voted to approve the final settlement. *Ayes: O’Connor-Ratcliff, Couvrette, Zane, and Patel. Absent: Beatty. Motion carried, 4-0.*
  - 2.1-c: Clerk Zane reported that in the matter of Pending/Existing Litigation, **Case No. 2020050243**, on a motion by Mrs. Couvrette and a second by Dr. Patel, the Board voted to approve the final settlement. *Ayes: O’Connor-Ratcliff, Couvrette, Zane, and Patel. Absent: Beatty. Motion carried, 4-0.*
  - 2.3-a: Clerk Zane reported that in the matter of Pupil Personnel – Student Expulsion(s), Disciplinary Matter(s), and Other Confidential Student Matters, **a. Case No. 2019-2020.15 – Readmission**. No reportable action from closed session. The Board will take action in open session, agenda item 8.1.
  - 2.6-a-1: Clerk Zane reported that in the matter of Public Employee Appointment / Employment, **Director II, Special Education**, on a motion by Mr. Zane and a second by

Mrs. Couvrette, the Board voted in closed session to appoint Heather Schauder as Director II, Special Education. *Ayes: O'Connor-Ratcliff, Couvrette, Zane, and Patel. Absent: Beatty. Motion carried, 4-0.*

2.6-a-2: Clerk Zane reported that in the matter of Public Employee Appointment / Employment, **Director II, Special Education**, on a motion by Dr. Patel and a second by Mrs. Couvrette, the Board voted in closed session to appoint **Jeanette Anderson as Director II, Special Education**. *Ayes: O'Connor-Ratcliff, Couvrette, Zane, and Patel. Absent: Beatty. Motion carried, 4-0.*

2.6-b: Clerk Zane reported that in the matter of Public Employee Appointment / Employment, **Director of Purchasing**, on a motion by Dr. Patel and a second by Mrs. Couvrette, the Board voted in closed session to appoint Brenda Gachuz as Director of Purchasing. *Ayes: O'Connor-Ratcliff, Couvrette, Zane, and Patel. Absent: Beatty. Motion carried, 4-0.*

2.7-a: Clerk Zane reported that in the matter of Conference with Real Property Negotiator, **Real Property**: Approximately 27.22 acres of vacant land located at the intersection of Carmel Valley Road and Camino Del Sur; APNs 306-020-32, 306- 250-27 and 312-293-11 ("Property").

**Negotiating Parties:** Poway Unified School District, real property negotiators Ron Little, Associate Superintendent, Business Support Services and District legal counsel (Proposed Lessor/Seller/Exchangor), and an unidentified number of potential lessees, buyers or exchangees for the Property which may lease or acquire all or a portion of the Property through request for proposal processes (Proposed Lessee(s)/Buyer(s)/Exchangee(s)).

**Under Negotiation:** Instruction to negotiators will concern price and terms of payment and other issues associated with possible lease and/or sale of all or part of the identified Property. On a motion by Mrs. Couvrette and a second by Mr. Zane, the Board's action is as follows: In connection with the District's previously issued Request for Proposal for the Property, the Board took action, by unanimous vote to approve an updated Letter of Intent from Costco Wholesale for the proposed Ground Lease of the Property, and has directed the negotiation of an appropriate Option Agreement and Ground Lease for such transaction. At a future Board Meeting open session, the Board will be presented a summary of each received final Request for Proposal response, and action may be taken to formally approve the proposal which is the most beneficial to the District. *Ayes: O'Connor-Ratcliff, Couvrette, Zane, and Patel. Absent: Beatty. Motion carried, 4-0.*

There was no other reportable action taken in closed session.

### 3.3 Members in Attendance

All Board members were in attendance, including Student Board Member Emily Bylsma. Board Member Kimberley Beatty attended via phone.

### 3.4 Welcome to Public

Student Board Member Emily Bylsma welcomed the public and offered instructions on the procedure for addressing the Board during the Public Comments segment of the meeting.

### 3.5 Approval of Agenda/Sequence

On a motion by Dr. Patel, and a second by Mrs. Couvrette, the agenda/sequence was approved with item 5.7(c) pulled from the agenda by staff, to seek an opinion from legal counsel regarding the requirements for an elected trustee to maintain residence in the area he

# Exhibit

# I



August 13, 2020

Poway Unified School District  
15250 Avenue of Sciences  
San Diego, CA 92128

**RE:** Counter-Offer Response for the Lease, Purchase or Exchange of School District Surplus Real Property located at NWC of Camino del Sur & Carmel Valley Ranch Rd., San Diego, CA containing approximately 27.22 acres (the "**Property**")

Dear Poway Unified School District Board Members:

Costco appreciates the opportunity to submit a revised offer for the Property based on our continued negotiations. Costco is the third largest US retailer based on global sales and is #14 on the Fortune 500 list. Costco is also listed as #4 on the Forbes list of America's Best Employers 2019. Providing our members outstanding service and convenience is an essential element for our success and we are committed to growing the number of our physical stores. We have approximately 327,000 members in the City of San Diego and over 90% of the households within 2 miles of this site are Costco members. We believe our modern lifestyle retail vision for the Property will provide a unique opportunity to serve the retail needs of the neighborhood and our approximately 41,000 members in the Black Mountain Ranch/ Torrey Highlands communities.

Our project proposes to integrate local, resident-serving businesses, restaurants, and multi-family residential units with a Costco Wholesale to provide a complementary set of uses and site amenities attractive to all members of the community. In the attached application, we have endeavored to create an economically feasible project for the Property, understanding what it takes to accomplish a project of this magnitude. Costco operates 785 locations in 12 countries (546 locations in the United States and 128 locations in California) and knows how to integrate our business into local communities and create successful projects. We have assembled an experienced team of professionals to help us accomplish this project for the Property.

Attached is a summary of key business terms we propose. If there are other key business terms that are important to the District, please let us know so we may consider them. We look forward to the opportunity to partner with you to refine our proposed project and accomplish our shared goal. If you have any questions or suggestions, please do not hesitate to call me directly or my local colleague, Jenifer Murillo ([jmurillo@costco.com](mailto:jmurillo@costco.com) or 714.978.5027).

Sincerely yours,

A handwritten signature in blue ink, appearing to read "Dave Messner".

Dave Messner  
SVP of Real Estate  
COSTCO WHOLESALE

### COSTCO PROPOSAL

We propose to ground lease the Property on a NNN basis on the following general terms:

Base rent for a 40 year lease term, with two renewal options of 10 years each:

Initial Term:

Years 1-10	\$2,114,690	Annually
Years 11-20	\$2,431,894	Annually
Years 21-30	\$2,796,678	Annually
Years 31-40	\$3,216,179	Annually

Renewals:

Years 41-50	\$3,698,605	Annually
Years 51-60	\$4,253,396	Annually

**Rent & Term Commencement:** The lease will be effective upon signing, subject to termination if certain agreed upon contingencies are not satisfied or waived. In the event all contingencies are satisfied or waived, the Term will commence on the date the last contingency is satisfied or waived and the Rent Commencement Date will be 180 days after the satisfaction or waiver of the last contingency or when Costco opens for business, if sooner.

**Right of First Refusal:** Costco would receive a right of first refusal if the Poway Unified School District decides to sell the Property, after the District follows any applicable statutory authority for such sale, and otherwise complies with any third party existing rights of first refusal.

**Assignment or Subletting:** Costco may assign its rights in the Lease to an entity that will develop the Property in accordance with the Project Approvals or it may sublet a portion of the Property to others for development of the non-Costco components of the project.

### KEY TRANSACTION TERMS

**Contingency Timing:**

Feasibility= 180 days + 1 (30D) extension.

Deposit: \$150,000 refundable, which shall become non-refundable after successful conclusion of the Feasibility Period, and shall be applicable after Rent Commencement.

Project Approvals = 540 D after Feasibility + 2 (120D) extension

Construction Permits = 180 D after Project Approvals

**Project Approvals and Construction Permits:** Costco will pursue all zoning, entitlements, governmental approvals and permits, and the like, and the costs for such shall be incurred by Costco.

**Closing and Transaction Costs:** All closing and transaction costs will be in accordance with local practice and custom.

# Exhibit

J

**TO: BOARD OF EDUCATION**

**MEETING DATE:** September 10, 2020

**FROM:** Ron Little  
Staff Support: Rheia Alschbach

**AGENDA ITEM:** 7.3

**SUBJECT: APPROVAL OF ACTION TO IDENTIFY AND APPROVE THE MOST BENEFICIAL PROPOSAL AND SPECIFIC PROPOSAL TERMS, AND APPROVAL OF ENTERING INTO AN OPTION AGREEMENT AND GROUND LEASE WITH THE SELECTED PROPOSER IN FURTHERANCE OF THE DISTRICT’S REQUEST FOR PROPOSAL PROCESS FOR THE SURPLUS REAL PROPERTY KNOWN AS THE BLACK MOUNTAIN RANCH SOUTHERN SITE**

- Action
- Consent Calendar
- First Reading
- Information
- Presentation
- Public Hearing
- Roll Call Vote Required

**RECOMMENDATION:**

**Identify and approve the proposer who offered the “most beneficial” proposal; identify and approve the terms which make such proposal the “most beneficial” proposal; and, delegate authority to the Superintendent, or designee, to negotiate an Option Agreement and Ground Lease between the District and the most beneficial proposer, and present such documents to the Board at a later date.**

**DISCUSSION/PROGRAM:**

The District’s Board (“Board”) previously declared certain real property known as the Black Mountain Ranch Southern Property consisting of 27.2 acres of vacant land, APNs 306-020-32, 306-250-27 and 312-293-11 (“the Property”), surplus property pursuant to the Education Code section 17455 et seq. Pursuant to the Board’s direction, District staff received approval from the State Board of Education to pursue the sale, lease, or exchange of the Property through a Request for Proposal (“RFP”) process, through which the District received three proposals from parties interested in the Property.

District staff and legal counsel have discussed the final updated proposals received pursuant to the RFP process, as well as the negotiations which followed.

Further, District staff and legal counsel have concluded negotiations with Costco Wholesale (“Costco”) with respect to its proposal to lease the Property. The District has pursued such negotiations in order to 1) confirm the precise terms of Costco’s proposal to be included in an Option Agreement and Ground Lease between the parties, and 2) for the Board to determine if Costco’s proposal is the most beneficial offer received by the District; and such terms were memorialized in a Letter of Intent from Costco, which the Board approved on August 13, 2020.

Continued...

**LEGAL REFERENCE:** Education Code section 17455 et seq

**FISCAL IMPACT:** Future Lease Agreement may provide lease revenues to the District as noted herein.

**MOVED BY:** \_\_\_\_\_ **SECONDED BY:** \_\_\_\_\_

**VOTE:** BEATTY \_\_\_ COUVRETTE \_\_\_ O’CONNOR-RATCLIFF \_\_\_ PATEL \_\_\_ ZANE \_\_\_ **STUDENT PREFERENTIAL VOTE:** BYLSMA \_\_\_

In summary, the District assessed the proposals submitted based on the information provided by each, and with respect to offers to lease the Property, with specific focus on the following factors: 1) the term of the Ground Lease, 2) the rent payments (and escalation timing and amounts) to be made throughout the Ground Lease term, 3) the timeframe required to investigate the Property to determine if the proposer could proceed with lease the Property (the “Due Diligence Period”), 4) the deposit structure offered by the proposals through which the proposers offered to release certain payments to the District during the Due Diligence Period, and 5) how the proposer will address any approvals required for its planned development. Costco’s updated proposal with respect to these categories is as follows:

Lease Term	Forty (40) years with two renewal options of ten (10) years each
Rent Payments	<p><b>Initial Term:</b>  Years 1-10: \$2,114,690 Annually  Years 11-20: \$2,431,894 Annually  Years 21-30: \$2,796,678 Annually  Years 31-40: \$3,216,179 Annually</p> <p><b>Optional Renewal Term:</b>  Years 41-50: \$3,698,605 Annually  Years 51-60: \$4,253,396 Annually</p>
Timeframe	Costco offers a Due Diligence Period of 180 days with an optional 30 day extension. Costco will start paying rent 180 days after satisfaction or waiver of contingencies, or when Costco opens for business, if sooner.
Deposit Structure	Deposit of \$150,000 at execution, which will become non-refundable and released to the District at the conclusion of the Due Diligence Period.
Project Approval	Costco will pursue all zoning, entitlements, governmental approvals and permits, and the like, and the costs for such shall be incurred by Costco.

Costco’s proposal terms summarized above, as well as the information provided by Costco in its updated proposal for the lease of the Property, amount to a cumulative set of terms which will permit the Board to deem it the “most beneficial” proposal, when compared to the others. Therefore, District staff recommends the Board take action on the recommendations set forth above.

Exhibit

K

**or Reduction in Hours of Classified Positions as Contained within Exhibit ‘A’ and Corresponding Layoff of Classified Employees”**

On a motion by Dr. Patel, and a second by Mr. Zane, the Board approved Resolution No. 09-2021 as presented. *Ayes: O’Connor-Ratcliff, Couvrette, Zane, Beatty, and Patel. Motion carried unanimously, 5-0.*

## **7.0 BUSINESS SUPPORT SERVICES**

**7.1 Approval of Resolution No. 07-2021 Entitled “Authorizing and Providing for the Issuance of Special Tax Refunding Bonds of Poway Unified School District Community Facilities District No. 6 (4S Ranch), Approving the Form of an Eighth Supplemental Indenture, Escrow Deposit and Trust Agreement, Bond Purchase Agreement, Preliminary Official Statement, Continuing Disclosure Agreement, and Other Documents and Authorizing Certain Actions in Connection with the Issuance of such Bonds”**

On a motion by Dr. Patel, and a second by Mr. Zane, the Board approved Resolution No. 07-2021 as presented. Preferential vote Aye by Student Board Member Emily Bylsma. *Ayes: O’Connor-Ratcliff, Couvrette, Zane, Beatty, and Patel. Motion carried unanimously, 5-0.*

**7.2 Approval of the 2019-2020 Unaudited Actuals Financial Report**

On a motion by Mr. Zane, and a second by Mrs. Couvrette, the Board approved the 2019-2020 Unaudited Actuals Financial Report as presented. Preferential vote Aye by Student Board Member Emily Bylsma. *Ayes: O’Connor-Ratcliff, Couvrette, Zane, Beatty, and Patel. Motion carried unanimously, 5-0.*

**7.3 Approval of Action to Identify and Approve the Most Beneficial Proposal and Specific Proposal Terms, and Approval of Entering into an Option Agreement and Ground Lease with the Selected Proposer in Furtherance of the District’s Request for Proposal Process for the Surplus Real Property Known as the Black Mountain Ranch Southern Site**

Following discussion, on a motion by Mrs. Couvrette, and a second by Board President Michelle O’Connor-Ratcliff. The Board approved the actions to identify and approve the most beneficial proposal of entering into an option agreement and ground lease selected proposal for furtherance of the District’s request for proposal process for the surplus real property known as the Black Mountain Ranch Southern Site as referenced on slide number seven of the 7.3 presentation. Preferential vote Abstain by Student Board Member Emily Bylsma. *Ayes: O’Connor-Ratcliff, Couvrette, Zane, and Beatty. Abstain: Patel. Motion carried, 4-0.*

Public Comments: Tamara Deverell, Marc & Sarah Van De Graaf, Susan Bikhazi, Jessica Vogelsang, Andrew Asch, Scott Lamb, Dawn Holman, Mike Barbera, Puneh Baha, Thomas Landers, Trica O’Boyle, Robert Meyer, Harold Small, Suneeta Atluri, Tatiana Dupuy, Juergen Stark, Michael Koh, Maria Grabowski, Darla O’Rourke, and 48 additional people submitted comments regarding the Surplus Real Property known as the Black Mountain Ranch Southern Site.

## **8.0 LEARNING SUPPORT SERVICES**

**8.1 Public Hearing and Approval of Resolution No. 12-2021 Entitled “Sufficiency of Instructional Materials for 2020-2021”**

Board President Michelle O’Connor-Ratcliff opened a public hearing at 11:12 p.m. to hear any public comments on this item. Hearing none, the public hearing was closed at

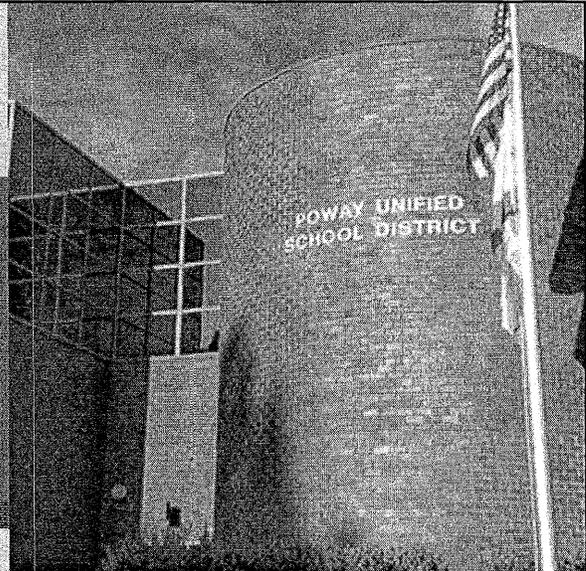
# Exhibit

# L

# Black Mountain Ranch Southern Site

Community FAQs

November 4, 2020



## Panel Members

### **Poway Unified School District:**

Ron Little – Associate Superintendent of Business Support Services  
Rheia Alschbach – Assistant Director of Planning  
Christine Paik – Chief Communications Officer (Moderator)

### **Community Facilities Districts:**

Adam Bauer – CEO & President, Fieldman Rolapp & Associates

### **Demographics:**

Larry Ferchaw – Executive Director, Cooperative Strategies

### **Property Management:**

Andreas Chialtas – Partner, Atkinson, Andelson, Loya, Ruud & Romo  
Barry Blade – Property Management Consultant

## Zoom Webinar Meeting Norms & Expectations

- ▶ The chat is disabled to avoid distractions and to allow everyone to focus on audience questions and the presenters' answers
- ▶ We cannot speak on behalf of the Board Members or their decisions - today's meeting is for staff to answer your FAQs around the work/process
- ▶ Raise your hand after each section if you have a question related to that section, and you will be unmuted to speak
- ▶ Any unanswered questions can be asked at the end of the meeting

3

## Frequently Asked Questions

4

<ol style="list-style-type: none"><li>1. Why is the school district trying to monetize its surplus property?</li><li>2. What about all the Mello Roos taxes we pay?</li><li>3. Why has there been no additional middle school planned?</li><li>4. What about all the middle school age students in the Willow Grove area?</li></ol>	<ol style="list-style-type: none"><li>5. Did the school district conduct the proper steps to declare the property surplus?</li><li>6. What were the proposals PUSD received for the surplus site. What constitutes the "most beneficial" offer?</li><li>7. What happens next? Will the community have a voice? Will any proposed projects go to a vote?</li></ol>
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<p>Why is the school district trying to monetize its surplus property?</p>	<p>1</p>
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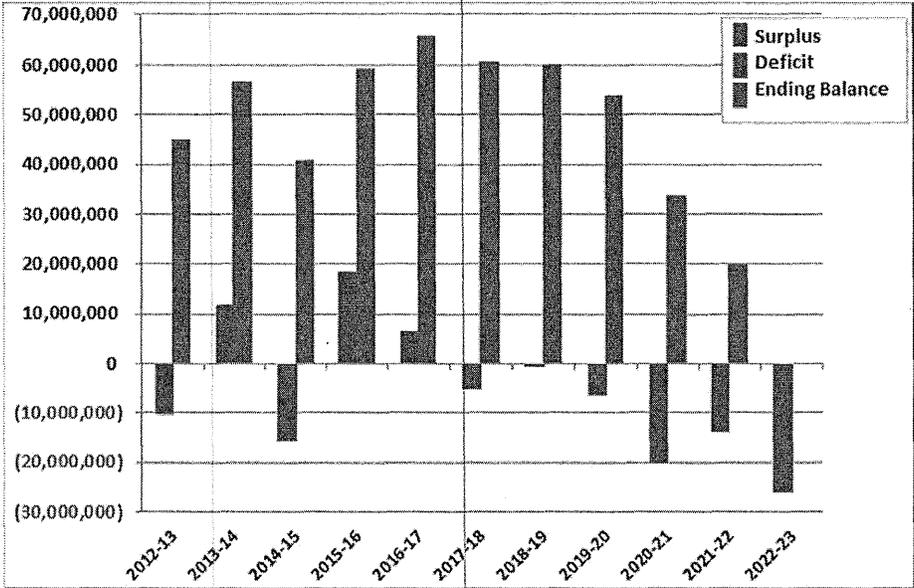
## CA State K-12 Funding Local Districts

based on 2019-20 data

District	LCFF per ADA	%Δ
San Diego Unified School District	\$10,627	16.6%
Vista Unified School District	\$10,334	13.4%
Oceanside Unified School District	\$10,319	13.2%
Ramona Unified School District	\$9,559	4.9%
San Marcos Unified School District	\$9,345	2.5%
Carlsbad Unified School District	\$9,186	0.8%
Poway Unified School District	\$9,115	-

7

## PUSD General Fund Ending Balance and Net Activity



8

**NET ACTIVITY = General Fund Revenues - General Fund Expenditures**

## General Fund Revenue Alternatives?

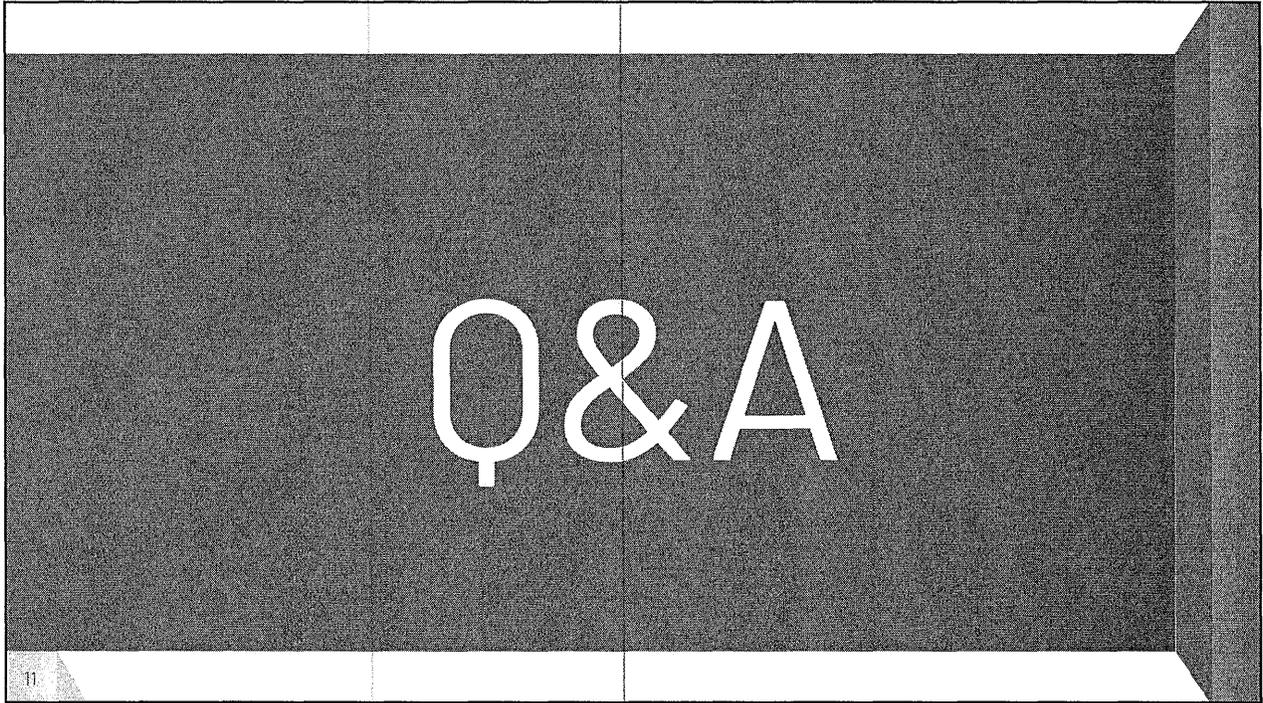
### ▶ **Parcel tax**

- ▶ Flat tax levied per parcel of land (inequitable)
- ▶ No school parcel tax measures have been approved by voters in San Diego County from 2008-2019
- ▶ Requires a "super majority" approval,  $\frac{2}{3}$  of voters
- ▶ Limited in term, most often
- ▶ Some exemptions permitted (eg.-seniors)
- ▶ Parcel tax proceeds must be used to support programs and people - supports the general fund

9

We are open to ideas and creative solutions!

10



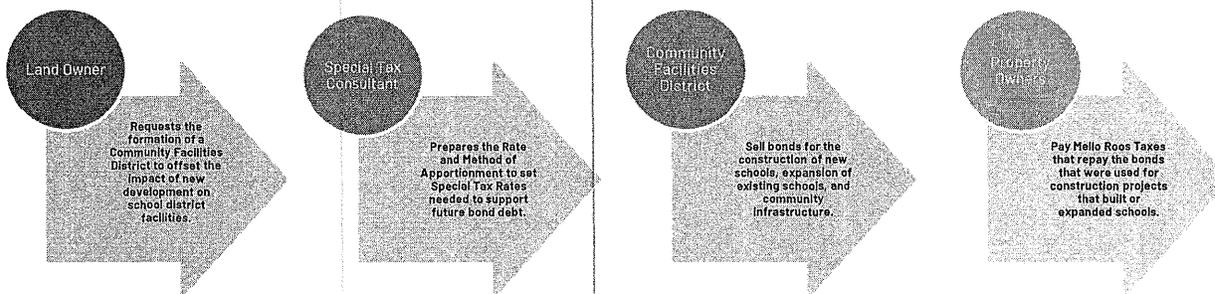
## Use of Mello Roos Taxes

Per the Mello-Roos Act\* special taxes are used to finance the construction, expansion, rehabilitation, or acquisition of any real or other tangible property with an estimated useful life of five (5) years or more which is or will be constructed, owned, or operated by a public entity; as a result of new development.

\*Government Code Section 53311-53368.3

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## The Simple Life of Mello Roos Taxes

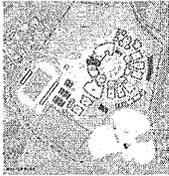
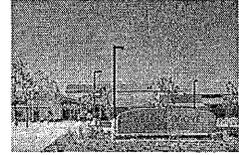


14

## Projects Funded with CFD Taxes from CFD No. 4 and No. 7



- ▷ Site Acquisition (2007) - fully funded
  - Willow Grove Elementary School Site
- ▷ New Construction (2008-2014) - partially funded
  - Del Norte High School
  - Willow Grove Elementary School
  - Design 39 Campus
- ▷ Additional Capacity - partially funded
  - Interim Housing
  - Black Mountain Middle School
  - Mt. Carmel High School
  - Willow Grove Elementary
  - Del Norte High School\*
  - Oak Valley Middle School\*



\*current



# Q&A

Why has there been no additional Middle School planned?

3

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## Demographics – What, Why, & How

### What we track

- 99 Square Miles
- 39 Mello-Roos Districts
- 3 Local Jurisdictions (City of Poway, City of San Diego, & County of San Diego)
- 10 Zip Code Areas
- 66,310 Land Parcels, 726 Mobile Home/Commercial lease lots

### Why we track

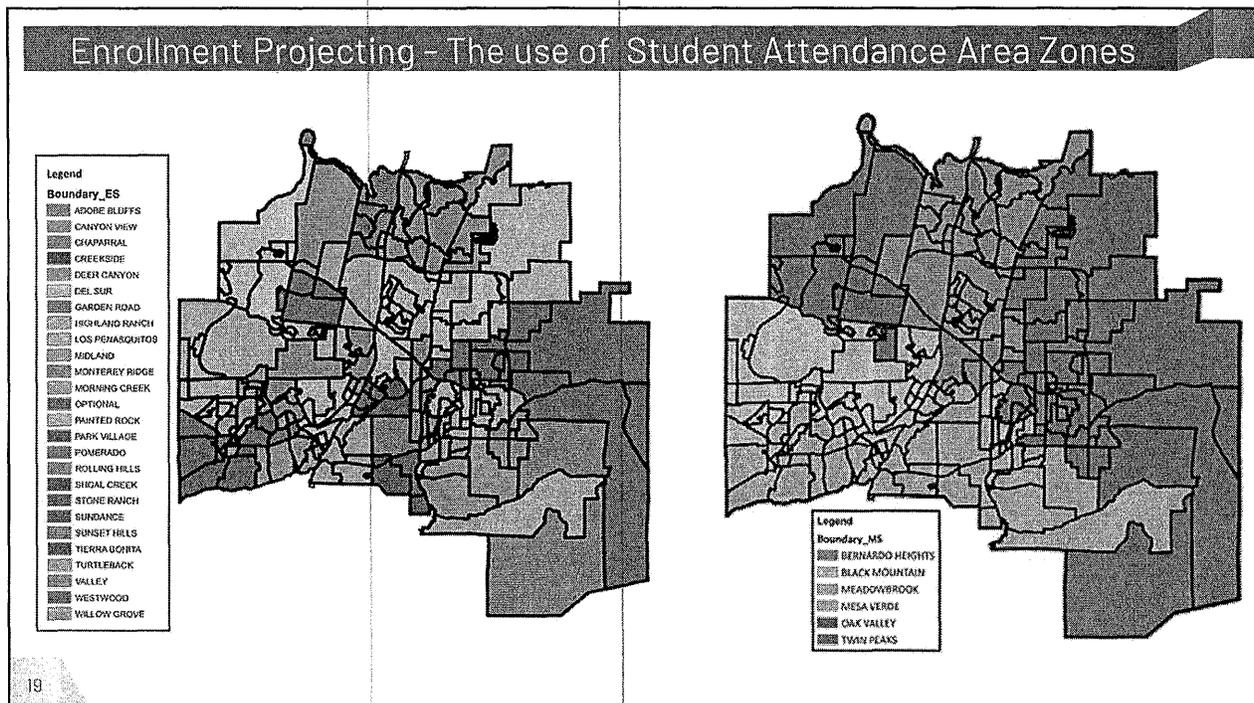
- Short & Long Term Enrollment Projections
- Annual State reporting for New Construction Grant Eligibility
- School Boundary Alignment
- School Facility Needs Assessment
- Determining a nexus to prepare the annual and bi-annual Developer Fee justification reports
- Calculation of Student Generation Rate

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### How we track

- Mello-Roos Formation Documents provide number and type of units to be constructed
- Quarterly contact with Developers or Merchant Builders on active projects
- Monthly review of City and County Planning Meeting Agenda and Minutes
- Notifications from Local Planning Groups
- In-house SANDAG Geographic Information System mapping
- Third Party Consultant outreach for reporting requirements related to the collection of Developer Fees





## School Needs Assessment

- ▶ In the Fall of 2011, prior to the formation of Real Property Advisory Committee, District staff and consultants worked through long-term enrollment projections to determine the capacity needs of the District.
- ▶ It was determined that more need existed at the elementary grade levels in the 4S Ranch and Del Sur area. Various scenarios were presented to meet the capacity needs, some examples included converting a K-5 into K-6, adding lower grades at a middle school, or constructing a 7-8 school.
- ▶ The most cost effective decision was made to construct a K-8 that could meet the needs of both elementary and middle school students and have the ability to be flexible between housing the two levels.
- ▶ Current projections do not support the need for a middle school based on our determination of available capacity.

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## Historical Middle School Enrollment Projections

Middle School Attendance Area	Current Enrollment 2010-2011		Projected Enrollment (Residence) School Year 2018-2019	Capacity		
	Attendance	Residence		at 27:1	at 30:1	at 35:1
Bernardo Heights	1,370	1,307	1,944	1,485	1,650	1,925
Black Mountain	1,345	1,211	1,317	1,539	1,710	1,996
Meadowbrook	1,268	1,408	1,451	1,647	1,830	2,135
Mesa Verde	1,294	1,196	1,250	1,755	1,950	2,275
Oak Valley	1,379	1,354	1,821	1,323	1,470	1,715
Twin Peaks	1,244	1,207	1,088	1,458	1,620	1,890
IDT/Unmatched	N/A	217	217	0	0	0
<b>Total</b>	<b>7,900</b>	<b>7,900</b>	<b>9,088</b>	<b>9,207</b>	<b>10,230</b>	<b>11,935</b>

Presented during the 2012 work of the Real Property Advisory Committee

Presented for the 2019 Real Property Advisory Committee support of a CDE Waiver

Middle School Attendance Area	Current Enrollment 2018-2019		Projected Enrollment (Residence) School Year 2025-2026	Capacity		
	Attendance	Residence		at 27:1	at 30:1	at 35:1
Bernardo Heights	1,510	1,578	1,470	1,431	1,590	1,855
Black Mountain	1,220	1,251	1,211	1,458	1,620	1,890
Meadowbrook	1,282	1,246	1,035	1,458	1,620	1,890
Mesa Verde	1,285	1,096	1,014	1,593	1,770	2,065
Oak Valley	1,480	1,741	1,641	1,323	1,470	1,715
Twin Peaks	1,176	1,125	1,258	1,360	1,500	1,750
Design 39 Campus	350	NA	350	432	480	560
SDC	224	224	224			
IDT/Unmatched	N/A	266	266			
New Directions	9	9	9			
<b>Total</b>	<b>8,536</b>	<b>8,536</b>	<b>8,478</b>	<b>9,045</b>	<b>10,050</b>	<b>11,725</b>

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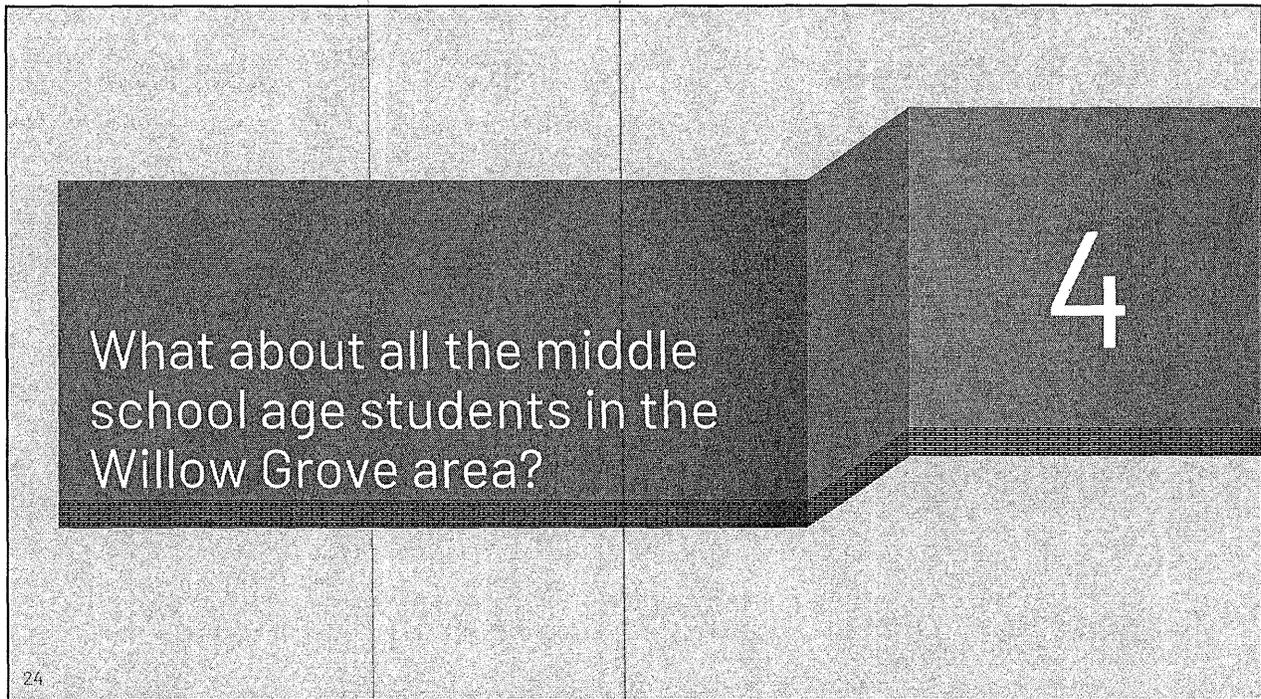
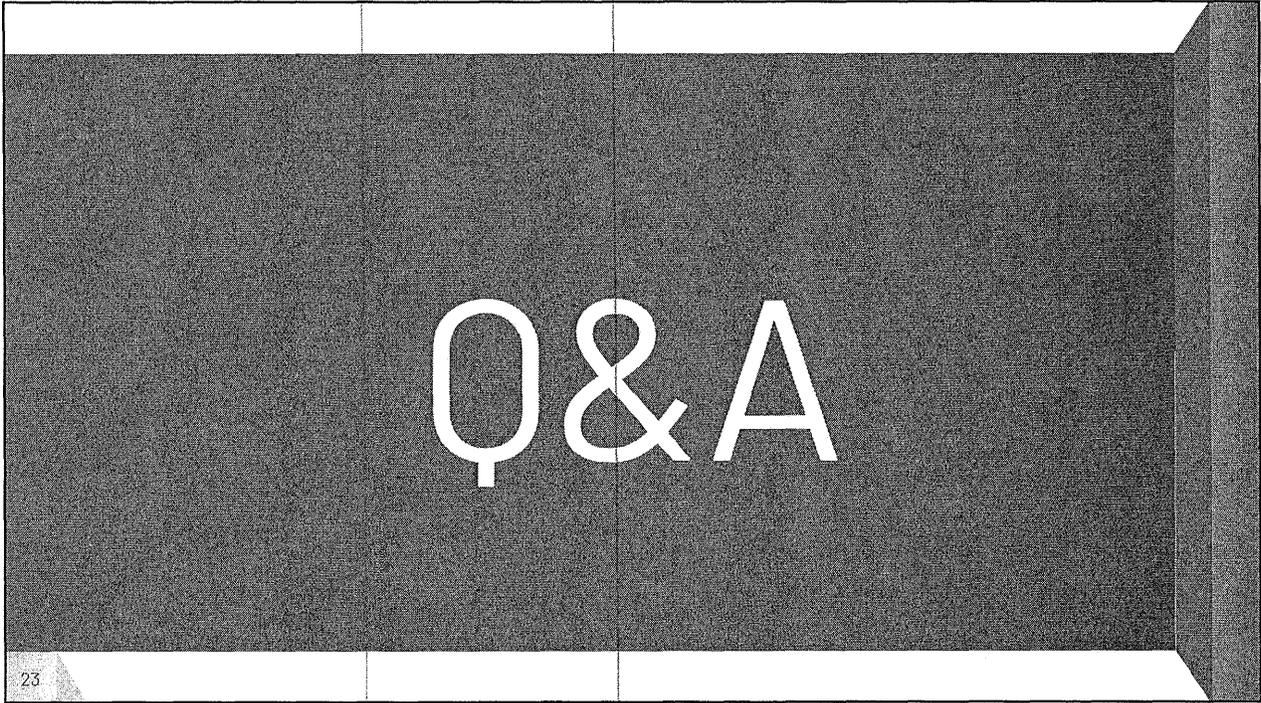
## Historical Middle School Enrollment Projections

Projections used during the drafting of the Long-Range Facilities Master Plan

Middle School Attendance Areas	Current Enrollment 2019-2020		Projected Enrollment (Residence) School Year 2026-27	Capacity		
	Attendance	Residence		at 27:1	at 30:1	at 35:1
Bernardo Heights*	1,486	1,530	1,591	1,524	1,650	1,925
Black Mountain	1,192	1,234	1,223	1,496	1,620	1,890
Meadowbrook	1,238	1,210	1,149	1,496	1,620	1,890
Mesa Verde	1,296	1,094	1,021	1,634	1,770	2,065
Oak Valley*	1,493	1,774	1,654	1,579	1,710	1,995
Twin Peaks	1,168	1,138	1,259	1,385	1,500	1,750
Design 39	373	NA	373	443	480	560
SDC**	225	225	225			
IDT/Unmatched	N/A	266	266			
New Directions	7	7	7			
<b>Total</b>	<b>8,478</b>	<b>8,478</b>	<b>8,767</b>	<b>9,557</b>	<b>10,350</b>	<b>12,075</b>

\*Includes expansion  
\*\*1:1

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<b>Grade Level Enrollment</b>	
Elementary	903
Middle	493
	<b>1396</b>

<b>Attendance in PUSD Schools</b>	
<b>Boundary Schools</b>	
Attend Willow Grove	727
Attend Black Mountain	263
Attend Oak Valley	72
Attend D39C - elementary	59
Attend D39C - middle	53
	<b>1174</b>
<b>Outside the Boundary</b>	
Elementary	<b>117</b>
Middle	<b>105</b>

25 Current Tk-8 Enrollment in Willow Grove Boundary Area

Q&A

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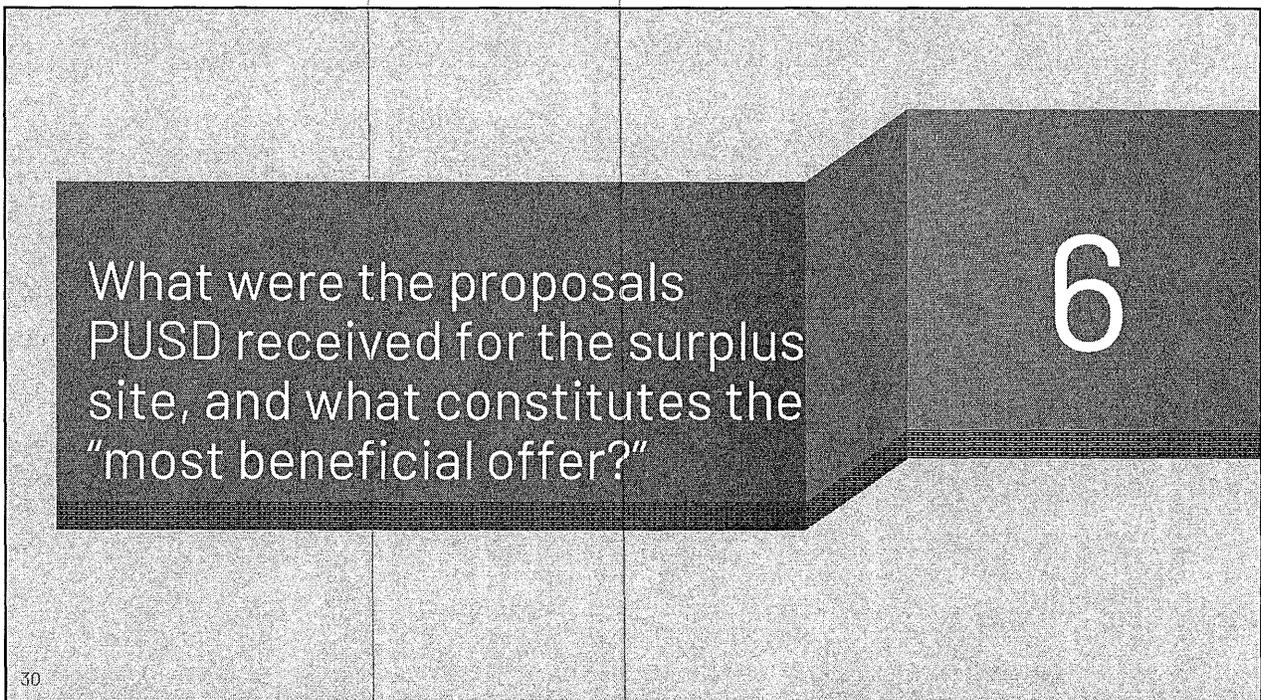
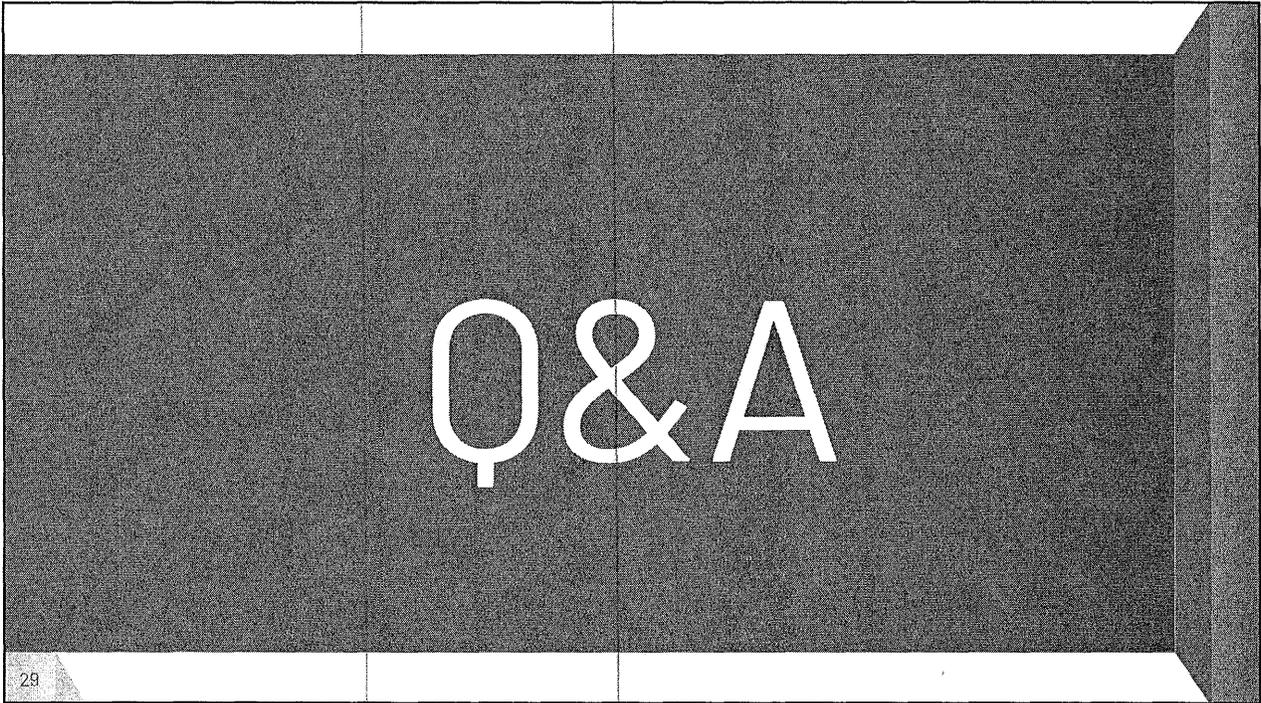
Did you conduct the proper steps to declare the property surplus?

5

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- ▶ In 2012 PUSD formed the Real Property Advisory Committee that was tasked to determine, based on data provided, if the District's four unused properties were needed for future school purposes and provide the Board of Education with their determination.
- ▶ In 2012, the RPAC completed all requirements as outlined in Education Code to declare the unused sites as surplus. The May 21, 2012 Report to the Board of Education, contained on the District website, outlines this work.
- ▶ In 2014, with support from the RPAC, the District received its first SBE Waiver which expired in 2016.
- ▶ In 2019, Staff requested to reconvene the original RPAC to discuss its support for submitting a new SBE Waiver. Staff was able to convene five of the seven members to review current middle school long-term projections and discuss the advantages of requesting another SBE waiver.
- ▶ In 2019, a Public Hearing was held to discuss the SBE Waiver.
- ▶ November 2019, SBE approved our Waiver request and the Board of Education approved the RFP process.

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# Proposals Received

## Brookfield Residential

- 1. 135-220 For-sale, Single Family Detached
- 2. Between 10%-20% Affordable Housing component (rental or for-sale)

## The Cambridge School

- 1. Relocation of current school to site

## Costco

- 1. Warehouse and Gas Station
- 2. Urban Village Concept
  - a. Retail Shops
  - b. Casual Dining
  - c. Residential

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# Comparison of Proposal Terms

## 1) Costco (recommended "most beneficial")

- The only lease proposal received: creates a stream of unrestricted income to the District, revenues increase over time, and are not restricted
- District retains ownership of property
- Costco is responsible for all entitlement, zoning, and approval costs

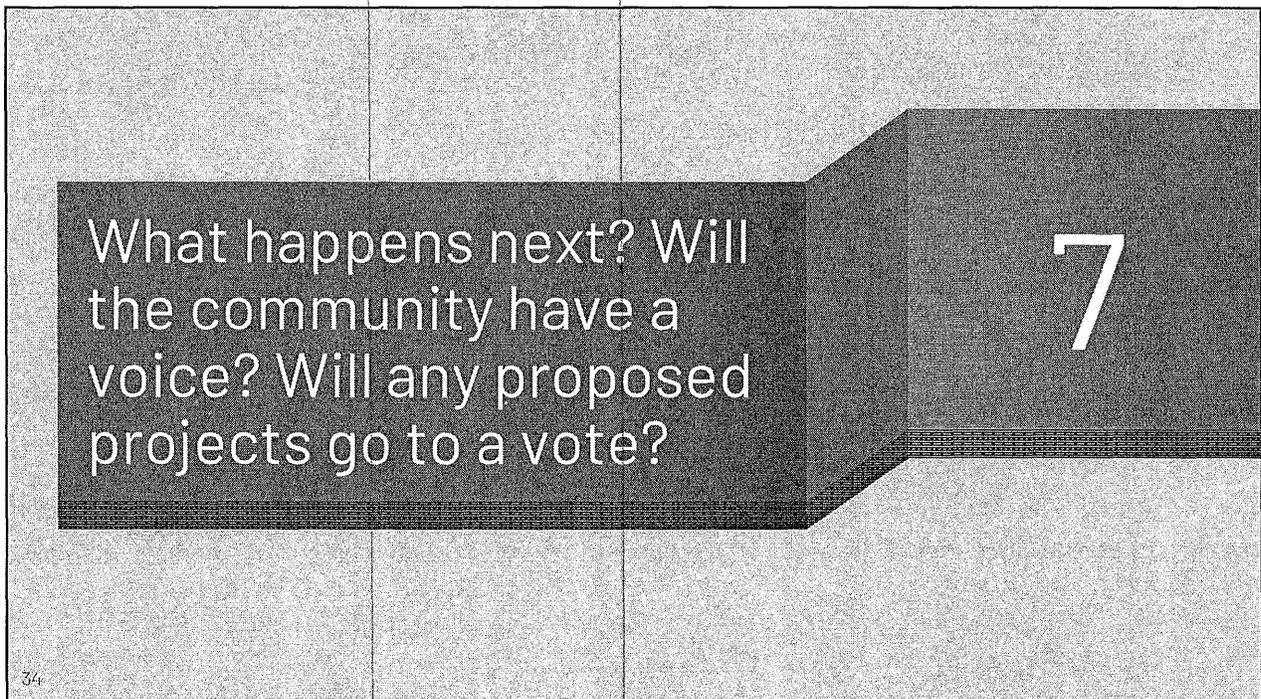
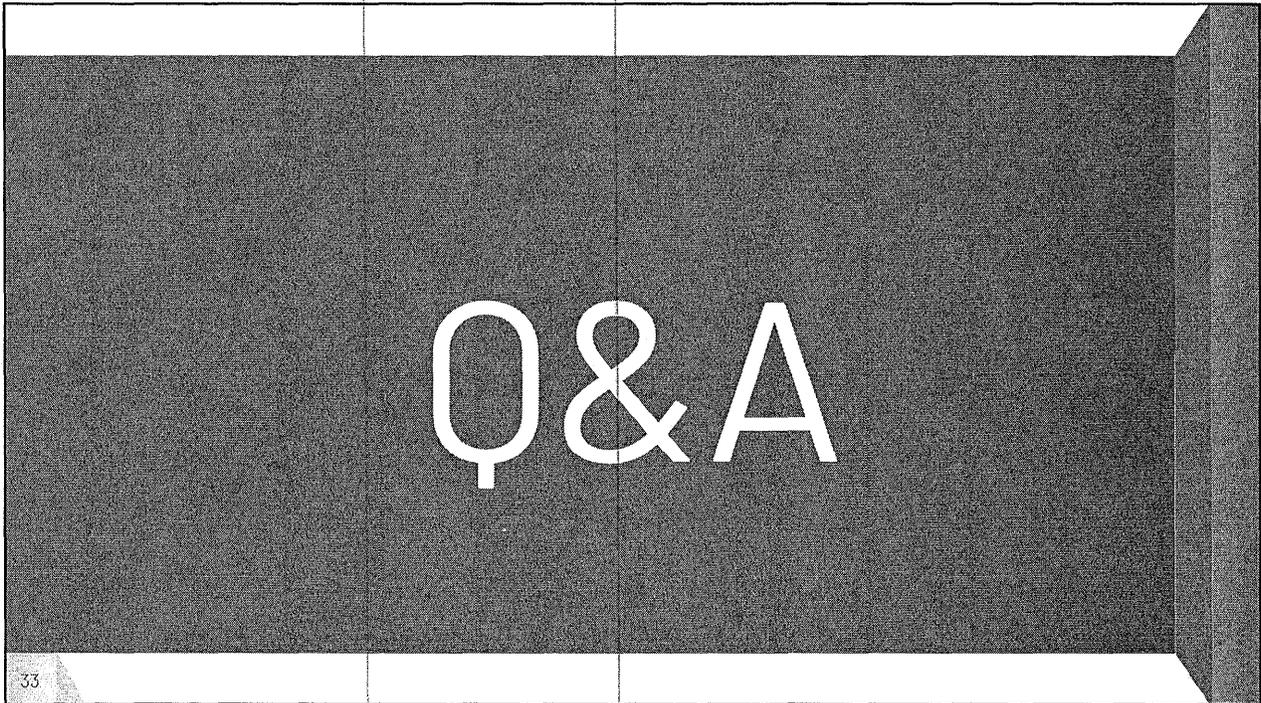
## 2) Brookfield

- Highest total sale price and fair market price
- Long and undefined closing period
- Use of sale proceeds would be restricted for offered capital improvements for capital improvements

## 3) Cambridge

- Price dramatically lower than other offers
- Quick timeline, but does not justify lower price
- Exchange option requires District to assess the property
- Use of sale proceeds would be restricted

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## Next Steps if Board Approved (Multi-Year Process):

- ▶ City of San Diego Planning Department (i.e. traffic studies, environmental impact report)
- ▶ City of San Diego Planning Commission (public hearing)
- ▶ San Diego City Council (public hearing)
- ▶ Community Vote (Prop A)

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# Q&A

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Any additional questions  
for our panel?

**PROOF OF SERVICE**

[CCP § 1013; CRC Rule 2.304 - Revised 01/01/07]

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES:

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 12800 Center Court Drive South, Suite 300, Cerritos, California 90703-9364;

On **November 12, 2020**, I served the foregoing document described as:

**DECLARATION OF STEPHEN MCLOUGHLIN IN SUPPORT OF RESPONDENT'S  
OPPOSITION TO VERIFIED PETITION FOR WRIT OF MANDATE AND  
COMPLAINT**

on the interested parties in this action by the method indicated below:

John C. Lemmo, Esq.	(619) 238-1900	<b>Attorneys for Petitioner and Plaintiff Protect Our Community Now</b>
Rebecca L. Reed, Esq.	(619) 235-0398 fax	
Justin M. Fontaine, Esq.		
Procopio, Cory, Hargreaves & Savitch LLP	<a href="mailto:john.lemmo@procopio.com">john.lemmo@procopio.com</a>	
525 B Street, Suite 2200	<a href="mailto:rebecca.reed@procopio.com">rebecca.reed@procopio.com</a>	
San Diego, CA 92101	<a href="mailto:justin.fontaine@procopio.com">justin.fontaine@procopio.com</a>	

- BY ELECTRONIC SERVICE VIA ONE LEGAL:** Complying with Local Rule of Court 352, California *Rule of Court* 2.253(a)(1)(2) and *Code of Civil Procedure* § 1010.6, I caused a true and correct copy of the document(s) to be served through One Legal at [www.onelegal.com](http://www.onelegal.com) addressed to the parties shown herein appearing on the above-entitled case. The service transmission was reported as complete and a copy of One Legal's Receipt/Confirmation Page will be maintained with the original document in this office.

Executed on **November 12, 2020**, at Cerritos, California.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct and, that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Stephanie L. Thomas