August 19, 2022

VIA EMAIL

Tiffany P. Scarborough
Scarborough Law
tiffany@tpscarborough.com

Re: Carmel Unified School District
Robert Kahn’s CPRA Request No. 2223_07
Our file no. 1885.220001

Dear Ms. Scarborough:

On behalf of our client, Carmel Unified School District ("District"), this letter responds to the request for records under the California Public Records Act ("CPRA") made by your client, Robert Kahn, and received by the District on August 9, 2022 (Request No. 2223_07) ("Request"). We have directed this letter to you because of your increasing involvement in Mr. Kahn’s CPRA requests. If we should continue to communicate response letters directly to Mr. Kahn, please let us know.

In accordance with Government Code section 6253.1, the District understands the Request as seeking the following three (3) categories of records, with certain subcategories as listed:

- **CPRA Request Category 1:** For the current swimming pool lights and Performing Arts Center at Carmel High School, records identifying:
  - (a) "[A]n index of all information that you have on the process that your colleagues [used] to develop and construct the lights and other improvements that you did."
  - (b) "[A]ll specifications to the lumens produced by the pool lights, all visuals produced to assess ... their impact on the community.”
  - (c) "[A]ll of Mr. Knights comments and review of the impact of the lights[,]” including “his comments that were made internally.”

- **CPRA Request Category 2:** For the proposed stadium lights at Carmel High School, records identifying:
  - (a) "[A]n index of all of your information on this subject matter.”
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- (b) “[T]he anticipated lumens, in total, for all the lights that you are proposing, the sight lines to the lights and all points that the lights will impact - from adjacent, to the hills, north, east and south and west.”
- (d) “[A]ll negative impacts (as determined to date) that your lights will have on the environment at large as well as the adjacent and view communities.”
- (c) “[T]he delta of lumens between the current pool lights and the stadium lights.”

- **CPRA Request Category 3:** For alternatives to the proposed stadium lights at Carmel High School, records identifying:
  - (a) “[A]n index of data and information pertaining to the analysis and study of alternatives.”
  - (b) “[A]ll data, reports and any other analysis you and your colleagues have done regarding alternatives such as utilizing [Carmel Middle School].”
  - (c) “[Y]our analysis and studies about using [Carmel Middle School] and the development of an environmentally sensitive sports complex.”

Please notify us if we have misunderstood the scope of the Request.

In general, the following records, among others, are exempt from disclosure: (1) Preliminary drafts, notes, or interagency or intra-agency memoranda that are not retained by the public agency in the ordinary course of business (Gov. Code, § 6254(a)); (2) Records, the disclosure of which is exempted or prohibited pursuant to federal or state law, including, but not limited to, provisions of the Evidence Code relating to the official information privilege, as well as trade secrets or other confidential or proprietary information (Gov. Code, §6254(k); Evid. Code, §§ 1040 & 1060); (3) Records exempt from disclosure under the deliberative process privilege, work product, or attorney-client privilege, or the public interest exemption (Gov. Code, §§ 6254.25 & 6255; Evid. Code, § 950 et seq.; Citizens for Open Gov. v. City of Lodi (2012) 205 Cal.App.4th 296, 305; City of San Jose v. Superior Court (1999) 74 Cal.App.4th 1008, 1019); (4) Records pertaining to pending litigation or claims (Gov. Code, §§ 6254(b) & 6254.25); (5) The contents of real estate appraisals or engineering or feasibility estimates and evaluations relative to the acquisition of property, or to prospective public supply and construction contracts, until all of the property has been acquired or all of the contract agreement obtained; and (6) Any other public records exempt from disclosure under Government Code section 6254 et seq., or other applicable law. Furthermore, the CPRA only requires production of records which exist at the time of the request, and the District is not required to create records in order to respond to requests. (Gov. Code, §§ 6252 & 6253; Haynie v. Sup. Ct. (2001) 26 Cal.4th 1061.) To the extent the Request seeks any of the foregoing, such records are exempt from disclosure, and the District is unable to produce such exempt and non-disclosable records, except as otherwise set forth above.

Without waiving its rights or any other objections that may be available to it, please be advised that the District has determined that it may have disclosable records responsive to the Request. The District is in the process of locating, reviewing, and compiling these records and expects to provide them once that process is complete.

With respect to Category 1, the District is not presently aware of any disclosable records responsive to Category 1(a) and the CPRA does not require the District to create such records. For Category 1(b), the Musco Green Generation Lighting Illumination Summary may be responsive to the Request. This record was previously produced in response to Request No.
2223_02. A copy is or will soon be available on the District CPRA website under Request No. 2223_02. ([https://www.carmelunified.org/Page/602.](https://www.carmelunified.org/Page/602.)) For Category 1(c), please note that the CPRA only applies to writings, not oral communications. (Gov. Code, § 6252(e), (g).) However, the District will undertake locating, reviewing, and compiling responsive writings, if any.

With respect to Categories 2 and 3, the prior draft Environmental Impact Report ("EIR") for the District’s Carmel High School Stadium Lights Project ("Project") may be responsive to Request. The District previously provided this document to Mr. Kahn in response to his Request No. 2223_03. A copy is available on the District CPRA website under Request No. 2223_03. ([https://www.carmelunified.org/Page/602.](https://www.carmelunified.org/Page/602.)) To the extent Categories 2 or 3 of this Request seek records pertaining to the forthcoming revised draft EIR that the District has not yet completed, the District has determined that such records are presently exempt from disclosure under the exemptions, noted above, for (1) Preliminary drafts, notes, or interagency or intra-agency memoranda that are not retained by the public agency in the ordinary course of business; and (2) Records exempt from disclosure under the deliberative process privilege, work product or attorney-client privilege, and/or the public interest exemption. At this time, the District has no responsive disclosable records pertaining to the forthcoming revised draft EIR. The District will publicly release the revised draft EIR later this month.

Thank you for your patience while the District completes its response to this Request. In the meantime, if you have any questions, please contact this office.

Should you have any questions, please let us know.

Sincerely,

DANNIS WOLIVER KELLEY

Reid D. Shannon

Attachments

c:  Ted Knight, Ed.D., Superintendent (Carmel Unified School District)  
    Jessica Hull, Director of Communications and Community Relations (Carmel Unified School District)  
    Tricia Zarevich, Confidential Administrative Assistant to the Superintendent (Carmel Unified School District)  
    Jessika K. Johnson, Esq. (Dannis Woliver Kelley)