



DANNIS WOLIVER KELLEY

Attorneys at Law

JESSIKA K. JOHNSON

Attorney at Law

jjohnson@DWKesq.com

San Francisco

April 28, 2022

VIA EMAIL

Carmel Residents

Re: Carmel Unified School District: Response to California Public Records Act Request

Dear Carmel Residents:

On behalf of our client, Carmel Unified School District ("District"), this letter serves as the District's response to your recent request for records under the California Public Records Act ("CPRA").

In accordance with California Government Code section 6253.1, the District understands your April 18, 2022 request as follows:

- CPRA Request Category 1: Please forward any records regarding the 8.23-acre parcel immediately adjacent to and west of Carmel Middle School to that is identified to be used for additional athletic fields. Dates of record should begin 2018 to current, April 2022.

Records should include the Carmel Unified School District, the Facilities Department and any outside agencies including but not limited to[:]

- EMC Planning Group,
- the original letter from Higgins, Keith, Traffic Engineer. Letter to Teri Wissler Adam (EMC Planning Group), subject: Carmel Middle School Athletic Field Expansion Traffic Issues Study, Carmel Valley, California, dated 15 August 2018. Cited on page 77 of the Proposed Mitigated Negative Declaration, Carmel Unified School District, Site Acquisition.

This request is overly broad, unduly burdensome, and unlimited in scope. (See Bertoli v. City of Sebastopol (2015) 233 Cal.App.4th 353, 371-372.) Further, this request is vague and ambiguous, as it is unclear what kind of records you are seeking. A request for disclosure of public records under the CPRA must be specific and reasonably focused. (Rogers v. Superior Court (1993) 19 Cal.App.4th 469, 480-

SAN FRANCISCO
200 California Street
Suite 400
San Francisco, CA 94111
TEL 415.543.4111
FAX 415.543.4384

LONG BEACH
444 W. Ocean Blvd.
Suite 1070
Long Beach, CA 90802
TEL 562.366.8500
FAX 562.366.8505

SAN DIEGO
750 B Street
Suite 2600
San Diego, CA 92101
TEL 619.595.0202
FAX 619.702.6202

CHICO
2485 Notre Dame Blvd.
Suite 370-A
Chico, CA 95928
TEL 530.343.3334
FAX 530.924.4784

SACRAMENTO
555 Capitol Mall
Suite 645
Sacramento, CA 95814
TEL 916.978.4040
FAX 916.978.4039

BERKELEY
2087 Addison Street
2nd Floor
Berkeley, CA 94704
TEL 510.345.6000
FAX 510.345.6100

FRESNO
7170 N. Financial Drive
Suite 135
Fresno, CA 93720
TEL 559.388.5802
FAX 559.388.5803

www.DWKesq.com

481.) The reasoning behind this requirement is so that a public agency "will have the opportunity to promptly identify and locate such records and to determine whether any exemption to disclosure applies." (*Galbiso v. Orosi Pub. Utility Dist.* (2008) 167 Cal.App.4th 1063, 1088.) Without this information, it is impossible for the District to address the full scope of objections that may apply to your request or identify disclosable responsive records.

Accordingly, this letter serves as the District's good faith attempt pursuant to Government Code section 6253.1 to elicit additional clarifying information from you that will help identify responsive records and assist you in making a focused and effective request that reasonably describes an identifiable record or records. (See Gov. Code, §6253.1(a) & (b).) Specifically, it is unclear what records you are seeking. The District is unable to ascertain what "outside agencies" you are referring to apart from EMC Planning Group. Please present a specific and focused request that reasonably describes an identifiable record or records.

To the extent the District understands your request, the District interprets your request as seeking records from 2018 through April 18, 2022 that concern the 8.23-acre parcel immediately adjacent to and west of Carmel Middle School, including property records, communications between the District and EMC Planning Group, and the letter cited on page 77 of the Mitigated Negative Declaration. Please notify us if we have misunderstood the scope of your 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. (Govt. Code, §§6252 & 6253; *Haynie v. Sup. Ct.* (2001) 26 Cal.4th 1061). To the extent your 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, to the extent the District understands your request, please be advised that the District has determined it has disclosable records responsive to your request. The District is in the process of searching for, collecting, and examining a voluminous amount of separate and distinct records and/or compiling data responsive to your request, and estimates that these records will be available for your review by July 28, 2022. To the extent the District is able to produce some or all of the records prior to July 28, it will do so.

Carmel Residents
April 28, 2022
Page 3

Should you have any questions, please do not hesitate to contact me.

Very truly yours,

DANNIS WOLIVER KELLEY

A handwritten signature in blue ink that reads "Jessica K. Johnson". The signature is written in a cursive style with a long, sweeping underline.

Jessika K. Johnson

CJK/jm

cc: Jessica Hull, Director of Communications and Community Relations (Carmel Unified School District)
Tricia Zarevich (Carmel Unified School District)