April 14, 2022

VIA U.S. MAIL

Christine G. Kemp, Esq.
Noland Hamerly Etienne & Hoss
333 Salinas Street
Salinas, CA 93902-2510


Dear Ms. Kemp:

As you know, this office represents Carmel Unified School District (“District”) with respect to requests for public records under the California Public Records Act (“CPRA”), as well as with respect to compliance under the California Environmental Quality Act (“CEQA”). It is our understanding from your previous correspondence that you represent Mr. Robert Kahn on these matters as they pertain to the District. Accordingly, this letter serves as the District’s response to your client’s April 4, 2022 request for records from the District under the CPRA.

In accordance with California Government Code section 6253.1, the District understands Mr. Kahn’s CPRA request as follows:

- **CPRA Request Category 1**: “Please provide the basis for how the Board determined that the lights, performing arts center and other projects done in 2008 were exempt from CEQA. And by whom, please.”

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 your client is 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, 480-481.) 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.” (Galviso 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 client’s 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 your client that will help identify responsive records and assist your client 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 your client is seeking. The District is unable to ascertain what “other projects” your client seeks records for apart from the New Theater Building Project and, presumably, the New Pool Project identified in Board Resolution #08-08 and the 2008 Notice of Exemption previously provided to your client. It is also unclear what your client means by “by whom” if this refers to someone other than the 2008 Board.

Notwithstanding the foregoing, to the extent the District understands your client’s request, the District interprets his request for records concerning “the basis for how the Board determined that the lights, performing arts center and other projects done in 2008 were exempt from CEQA” as seeking Board Meeting Minutes that concern the Board’s 2008 decision that the New Pool Project and New Theater Building Project were exempt under the California Environmental Quality Act (“CEQA”), along with Resolution #08-08 and the 2008 NOE, which set forth the applicable Categorical Exemption classifications for the projects (Class 1 (§15301), Class 2 (§15302), Class 11 (§15311), and Class 14 (§15314)). These documents were previously provided to your client on March 21, 2022.

To the extent this request seeks records exempt from disclosure under the deliberative process privilege, as discussed below, such records are non-disclosable. (Gov. Code, §6255; Citizens for Open Gov. v. City of Lodi (2012) 205 Cal.App.4th 296, 305; Times Mirror Co. v. Sup. Ct. (1991) 53 Cal.3d 1325, 1339).

- **CPRA Request Category 2:** “Please advise on the height of the pool lights. It’s perplexing that the board, at the time, apparently stated that they would not impact the environment or community. Please note that they tower over the gym - a large building.”

This request is overly broad, and unlimited in time and scope. (See Bertoli, supra, 233 Cal.App.4th at 371-372.) Further this request is vague and ambiguous, as it is unclear what kind of records your client is seeking. (Rogers, supra, 19 Cal.App.4th at 481.) The District interprets this as merely a request for information pertaining to the height of the existing pool lights, rather than a request for public records. To the extent this is a correct understanding of your client’s request, the pool lights are 60 feet above the pool deck. The poles are different heights due to the elevation profile of the site. There are 50 feet poles on the north side, and 70 feet poles on the south side. Please notify us if we have misunderstood the scope of this request.

To the extent the District has misunderstood this request, this letter serves as the District’s good faith attempt pursuant to Government Code section 6253.1 to elicit additional clarifying information from your client that will help identify responsive records and assist your client in making a focused and effective request that reasonably describes an identifiable record or records. (See Gov. Code, §6253.1(a) & (b).)

---

1 Based on prior correspondence from your client, the District presumes “lights” refers to the replacement of the old pool lights with the existing pool lights that occurred over ten years ago as part of the completed New Pool Project referenced in Resolution #08-08 and the 2008 NOE.

2 Resolution #08-08 – Resolution Rendering Local Zoning Ordinance Inapplicable to Projects at Carmel High School and Determining Projects are Exempt from the California Environmental Quality Act, dated February 11, 2008; and Notice of Exemption for Modernization and New Construction at Carmel High School Project, filed with the Monterey County Clerk in or around February 2008 (“NOE”).
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 your client is seeking. Please present a specific and focused request that reasonably describes an identifiable record or records and the time frame from which the records are sought.

- **CPRA Request Category 3**: “Please advise us of your knowledge of the sight lines and sphere of light pollution that those lights produce. Fyi - they are front and center from the Carmel Views area.”

This request is overly broad, and unlimited in time and scope. (See Bertoli, supra, 233 Cal.App.4th at 371-372.) Further this request is vague and ambiguous, as it is unclear what kind of records your client is seeking. (Rogers, supra, 19 Cal.App.4th at 481.) Accordingly, this letter serves as the District’s good faith attempt pursuant to Government Code section 6253.1 to elicit additional clarifying information from your client that will help identify responsive records and assist your client 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 from your client’s request as to what project he is seeking public records for, the type of records he is seeking, and the period of time he is seeking records from. The District is unable to ascertain what records are being sought by his request for “knowledge of the sight lines and sphere of light pollution that those lights produce.” Is this request seeking records concerning illuminance design criteria for the existing pool lights that were installed over ten years ago as part of the completed New Pool Project to replace the old pool lights? Please present a specific and focused request that reasonably describes an identifiable record or records and the time frame from which the records are sought.

- **CPRA Request Category 4**: “Please advise how many people the performing arts center seats. It’s a large building that appears to be able to seat 300-400 people. Again, as homes are nearby, it’s confusing at best that the Board would not consider that it[]s size and corresponding traffic would not impact the environment and community of people living near the [] Center. As we continue to live in a “car-centric” community – where do all those people park. What happens if you have PAC event and athletic event at the same time?”

This request is overly broad, and unlimited in time and scope. (See Bertoli, supra, 233 Cal.App.4th at 371-372.) Further this request is vague and ambiguous, as it is unclear what kind of records your client is seeking. (Rogers, supra, 19 Cal.App.4th at 481.) With respect to your client’s request regarding parking and simultaneous athletic and theater events, the District is unable to ascertain what records are being sought. Accordingly, this letter serves as the District’s good faith attempt pursuant to Government Code section 6253.1 to elicit additional clarifying information from your client that will help identify responsive records and assist your client in making a focused and effective request that reasonably describes an identifiable record or records. (See Gov. Code, §6253.1(a) & (b).)

With respect to your request regarding “how many people the performing arts center seats,” the District interprets this as merely a request for information pertaining to the seating capacity of the existing theater, rather than a request for public records. To the extent this is a correct understanding of your client’s request, the seating capacity of the existing theater is 360 people. Please notify us if we have misunderstood the scope of this request.

- **CPRA Request Category 5**: “As the current CHS football field is on a plateau that has perhaps a 270 degree view, please advise the distance and specific area that your proposed ‘football stadium’ lights would be able to be seen from. Please articulate the
many points from the north, east and south that the lights would be visible - negatively impacting the environment.”

This request is overly broad, and unlimited in scope. (See Bertoli, supra, 233 Cal.App.4th at 371-372.) Further this request is vague and ambiguous, as it is unclear what kind of records your client is seeking, apart from the Draft Environmental Impact Report (“Draft EIR”) for the proposed Carmel High School Stadium Lights project that was previously provided to your client on April 1, 2022. (Rogers, supra, 19 Cal.App.4th at 481.) For your client's convenience, a copy of the original Draft EIR previously provided can also be found on the District's website: (https://www.carmelunified.org/cms/lib/CA01000917/Centricity/Domain/1/Draft%20EIR.pdf).

As you know, the District is currently revising the Draft EIR based on timely comments previously received. As discussed below, any preliminary draft of this document, including any appendixes thereto, that may currently exist is exempt from disclosure under the CPRA at this time. However, the District will recirculate the revised Draft EIR for a second round of public review and comment once the revisions are complete. At the appropriate time, the District will provide public notice of the availability of the revised EIR. This is expected to occur in late spring/early summer 2022.

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 client's 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.

At your earliest convenience, please provide the clarifications sought above so that the District can fully respond to your client’s CPRA request.

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

Very truly yours,

DANNIS WOLIVER KELLEY

Jessika K. Johnson, Esq.
cc: Ted Knight, Ed.D., Superintendent (Carmel Unified School District)
Jessica Hull, Director of Communications and Community Relations (Carmel Unified School District)
UNITED STATES POSTAL SERVICE.

EL CERRIT0
11135 SAN PABLO AVE
EL CERRITO, CA 94530-9996
(800)275-8777

04/14/2022 04:46 PM

<table>
<thead>
<tr>
<th>Product</th>
<th>Qty</th>
<th>Unit</th>
<th>Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>First-Class Mail 1 Letter</td>
<td>1</td>
<td></td>
<td>$0.58</td>
</tr>
</tbody>
</table>

Salinas, CA 93902
Weight: 0 lb 1.00 oz
Estimated Delivery Date
Sat 04/16/2022

Credit Card Remitted
Card Name: AMEX
Account #: XXXXXXXXXX7030
Approval #: 825707
Transaction #: 703
AID: A000000025010801 Chip
AL: AMERICAN EXPRESS
PIN: Not Required

---

Grand Total: $1.16

---

Every household in the U.S. is now eligible to receive a second set of 4 free test kits.
Go to www.covidtests.gov

---

Preview your Mail
Track your Packages
Sign up for FREE @
https://informeddelivery.usps.com

All sales final on stamps and postage. Refunds for guaranteed services only. Thank you for your business.

Tell us about your experience. Go to: https://postalexperience.com/Pos or scan this code with your mobile device.