



Kirsten Perez <perezk@mhusd.org>

Morgan Hill Unified School District/Charter School of Morgan Hill - Prop. 511 message

Sarah J. Kollman <skollman@mycharterlaw.com>

Fri, Mar 5, 2021 at 12:36 PM

To: "Yeh, John" <JYeh@bwslaw.com>

Cc: Kirsten Perez <perezk@mhusd.org>, Paige Cisewski <pcisewski@csmh.org>, Barry Schimmel <bschimmel@sbcglobal.net>

John,

Thank you to you and Kirsten for taking the time to talk yesterday; it was helpful to get a clear understanding of everyone's positions. We understand the concern articulated by Kirsten is that the District does not want to tie up the permanent classrooms on the site under Prop. 51's use and disposal provisions as it may want to use some of the classrooms down the road if CSMH's enrollment declines substantially and the District needs the classrooms for its own programs. CSMH communicated that the permanent classroom buildings need upgrading, and DSA has stated that in order for CSMH to qualify for its full CSFP award and put the largest amount of money towards improving the District's asset, CSMH needs to do work on all the classrooms, including the permanent classroom building. CSMH believes it is in the District's interest for CSMH to take on the debt to improve the District's facility. The District has other land it is developing and thus the likelihood of it needing 9 classrooms on a shared campus anytime in the future is extremely low.

We also acknowledged each other's different recollections regarding the District Board's approval of the initial project summary as well as our negotiations of the Prop. 51 agreement. We understand Kirsten's position to be that even if the District Board approved CSMH's Prop. 51 application to improve 22 classrooms, that by agreeing to the smaller project perimeter in the 2019 FUA, the parties agreed that only new buildings would be constructed. It is CSMH's position that the District Board was always aware of CSMH's plan to not only build new buildings on the campus, but also improve the existing classrooms, and that we were clear during negotiations of the 2019 FUA that when we came back to fix the project perimeter as the FUA contemplates, we would be broadening the scope of the project and likely touching other parts of the campus instead of limiting the improvements to just the new buildings in the very small outlines from the 2019 FUA exhibit.

Given this difference in positions and recollections, we believe we need direction from the District Board of Education as to their preferred approach.

As such, Charter School of Morgan Hill provides the following information and proposal for presentation to the District's Board of Education. We anticipate that the Board of Education will be able to provide guidance to both of us in terms of how to move this discussion forward.

Our two proposals:

1. The District and CSMH would agree that the Prop. 51 buildings identified in the attached map represent the Prop. 51 Project Perimeter for purposes of the facilities use agreement. This would allow CSMH to access its entire CSFP grant of \$14 million and provide a broad swath of upgrades to the permanent classrooms on campus in addition to new construction of classrooms and office buildings.

OR

2. CSMH would just construct the two new buildings using Prop. 51 dollars, and the District would provide CSMH with funds either from its own bond or other sources in the amount CSMH would have generated in bond and matching loan monies to fund upgrades to the permanent classroom buildings (currently estimated to be \$5 million), whereby those classrooms would remain under Proposition 39.

In either case, CSMH and the District would enter into a single facility use agreement that would define both the Prop. 51 and the Prop. 39 facilities (as well as those facilities owned by CSMH), and provide CSMH with use of the entire site for the term of the current FUA, with an attendant Prop. 39 waiver while it occupies the Prop. 39 facilities. The site would be maintained at CSMH's sole cost and expense, and no further fee would be charged. If CSMH's enrollment at CEBDS drops below 450 in any given year, in the following year the District would be entitled to reclaim a number of classrooms for its use for that year which is the number of enrolled students below 450/25. For example, if CSMH's enrollment is 300 in one year, in the next year, the District could reclaim 150/25, or 6 classrooms. For the subsequent years, CSMH would be able to reclaim one classroom for every 25 enrollment applications it presents to the District by April 1.

CSMH requests the Board of Education President place this item on the April 20, 2021 agenda for action and approval in providing direction to staff.

Thank you.

Sarah

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