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May 3, 2019

Mays Kakish, Chief Business Officer
Riverside Unified School District
3380 14th Street
Riverside, CA 92501

Re: Measure O Riverside Unified School District

Dear Mays:

I have been asked by the staff of Riverside Unified School District (the "District") to respond to a letter from Mr. Jason Hunter dated February 25, 2019 (the "Letter"). In the Letter Mr. Hunter raised a concern regarding the legal authority to use Measure O bond proceeds to purchase property located at 7351 Lincoln Avenue for the expected use as a school site for the Casa Blanca neighborhood school.

Recall that I had the pleasure of speaking with Mr. Hunter and several other members of the Measure O Independent Citizen's Bond Oversight Committee (the "Committee") on March 11, 2019 during which hour-long conversation I outlined the legal authority to spend bond proceeds and as well as answered a number of members questions regarding the Committee Bylaws and the scope of the Committee's responsibilities.

To confirm the advice I provided during that call, the scope of legal authority to spend Measure O monies is the sum of the projects authorized by the 75-word ballot question for Measure O, plus the types of projects described in the Full Ballot Text of Measure O, plus all of the projects identified in the District's Facilities Master Plan, as it has been approved by the Board of Education on February 1, 2016. These references are additive, meaning that a project needs to be authorized by any one of the three project sources.

In reviewing Measure O, ample legal authority exists for the Board of Education to determine to acquire land with Measure O bond funds. The 75 word ballot statement authorizes the District to "construct, acquire, and repair classrooms, sites, facilities and equipment..." (Emphasis added) Further, the Bond Project List included in the voter pamphlet authorizes the District to "acquire land" and "construct new schools". Based on these provisions, there is no doubt as to the legal authority to acquire a school site for a Casa Blanca neighborhood school. The decision by the Board to exercise their powers in this regard is beyond the purview of the Committee.

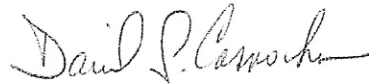
Because of the clarity of Measure O on the topic of acquiring property from bond proceeds, the Letter's summary of remedies relating to alleged misuse of bond proceeds is not relevant to the legal analysis.

The Letter also refers to the Foothill-De Anza Community College District case. I happen to have been the bond lawyer handling that case for Foothill-De Anza. The Foothill case stands for the proposition that districts are granted great flexibility in spending their bond funds. The case held that bond funds can be used for any project that is of "type of project" approved by the voters. The case is not relevant to Riverside because Measure O specifically authorized money to use to buy land and construct schools.

In summary, (i) Mr. Hunter has quoted from various provisions of the Education Code and the State Constitution mistakenly, (ii) Measure O specifically approves land acquisition as a bond project, and (iii) there is no case to make against the District for waste or improper expenditure of bond proceeds.

If you or Mr. Hunter has any follow-up questions, please contact me.

Very Truly Yours,

A handwritten signature in cursive script, reading "David G. Casnocha".

David G. Casnocha

August 20, 2019

Riverside School District
3380 14th St.
Riverside, CA 92501

Jason Hunter
3681 Sunnyside Dr. #20629
Riverside, CA 92516

RE: New School Sites and the Improper Expenditure of School Construction Bond Money

Dear Esteemed Members of the Board:

I am in receipt of letters dated May 3, 2019, from David Casnocha of the law firm *Stradling, Yocca, Carlson & Rauth*; and from Terry Tao of the law firm *Tao Rossini* dated August 6, 2019, (that I received just yesterday). The letters are both addressed to RUSD Chief Business Officer, Mays Kakish. Although I was expecting a personal response from the Board of Education itself regarding my missive of February 25, 2019, I will assume for now that these legal opinions are reflective of the Board's opinions until I hear differently from District representatives.

Both legal opinions seem to center upon two distinct arguments: 1) that the ballot summary/statement itself allows for the District to, "acquire sites," and 2) that within the "project list," in the full text of the measure, the District is allowed to, "acquire land," and, "construct new schools". (3) Mr. Tao additionally points out that that the project list also mentions the District proposed, "to build a Center for the Study of Advanced Science, Technology, Engineering, and Math" ("STEM").

While all arguments on their face seem reasonable, a closer examination of the facts reveals otherwise. To wit:

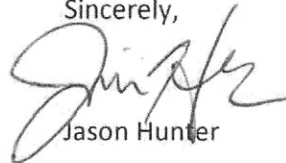
- 1) A ballot summary is not a, "specific project list," as is required under Article XIII A, Section 1, b(3)B of the California Constitution. Once again, the specific project list **must** be included within "the proposition approved by the voters" and **must** accompany, "certification that the school district board [...] has evaluated safety, class size reduction, and information technology needs in developing that list." A quick scan of Measure O reveals the only project list certified in this manner is the Facilities Master Plan ("FMP") adopted by the Board in 2016, which was incorporated into Measure O in its entirety. **This FMP contains no mention of any of the new school sites proposed by the District.**
- 2) The sentence containing the terms, "acquire land," and, "construct new schools," begins with the following, "In addition to the projects listed above, the **repair and renovation of each of the existing school facilities** may include [...] the following". It can be safely assumed a member of the public voting on Measure O would believe, "acquiring land," would be in conjunction with an existing school site footprint expansion and, "construct new schools," with a replacement or capacity expansion on-site. **In fact, the FMP contains many examples of these exact types of proposals.**

- 3) The existing Riverside STEM Academy is included in the FMP. Under the heading, "Anticipated New Additions/Renovations," it states that, "the campus will [...] construct a new multi-story classroom building for grades 9-12 that will include classrooms, science labs, multi-purpose room, food service, administration, and specialty labs." Hence, **the reference to the new STEM center within the Measure O project list is not incompatible with the FMP, which voters would be reasonably led to believe would be located at the existing site on Mt. Vernon Avenue.**

Given my above findings, and without further substantial rebuttal from the District, I remain convinced that any Measure O monies previously, currently, or proposed to be spent on the following projects are improper expenditures to which I am obligated to alert the public: new STEM High School at UCR, Casa Blanca Neighborhood School, Eastside Neighborhood School, and Spring Mountain Ranch School.

Barring a validation action brought by RUSD, my suggestion is that if the District desires to proceed with these projects, it needs to find alternate funding beyond Measure O bonds proceeds. Monies already spent towards these endeavors ideally should be replaced. The risk of not doing so includes potential civil litigation, loss of voter confidence affecting future bond measures, and even criminal prosecution of individuals. Of course, I am open to any other ideas as to how to solve this immediate conflict, am willing to recant should I be presented with a superior argument, and remain available as an asset/sounding board to the District if desired.

Sincerely,



Jason Hunter

Taxpayers Organization Representative

Measure O Independent Citizens' Bond
Oversight Committee

Dist: RUSD School Board of Education:
Dr. Angelov Farooq
Mrs. Kathy Allavie
Mr. Tom Hunt
Mr. Brent Lee
Mrs. Patricia Lock-Dawson
Cc: Superintendent Dr. David Hansen


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August 6, 2019

VIA E-MAIL TO MKAKISH@RUSD.K12.CA.US AND US MAIL

Mays Kakish, Chief Business Officer
Riverside Unified School District
3380 14th Street
Riverside, CA 92501

Re: Opinion on Use of Bond Funds

Dear Mays:

Recently, the District has been criticized for use of Measure O for the development of the UCR STEM campus and for acquisition of property in the Casa Blanca neighborhood. This letter is written to address the scope and use of Measure O funds.

I. Resolution

The Ballot Language under Resolution 2015.16-56 entitled "RESOLUTION OF THE BOARD OF EDUCATION OF RIVERSIDE UNIFIED SCHOOL DISTRICT ORDERING AN ELECTION, AND ESTABLISHING SPECIFICATIONS OF THE ELECTION ORDER" simply provides:

EXHIBIT A

"To repair and upgrade Riverside schools, including deteriorating roofs, plumbing and electrical systems, improve student safety, security, and seismic safety, upgrade classrooms, science labs, career- training facilities, computer systems and instructional technology to support student achievement in math, science, engineering and skilled trades, and construct, acquire, repair classrooms, sites, facilities and equipment, shall Riverside Unified School District issue \$392 million in bonds at legal rates, with citizen oversight, no money for administrator salaries, all money staying local?" (emphasis added)

The Project List at Exhibit "B" includes:

Partner with U.C. Riverside and Riverside City College to build a Center for the Study of Advanced Science, Technology, Engineering and Math, that will give local high school students access to college-level instruction....

Build new classrooms and facilities to relieve overcrowding...

...In addition to the projects listed above, the repair and renovation of each of the existing school facilities may include, but not be limited to, some or all of the following:

...acquire land; construct new schools...

II. Legal Analysis

There are several cases that address application of General Obligation Bond (“GO Bond”) ballot language to projects. Generally, the cases hold all expenditures from a GO Bond must be expended within the restrictions of the ballot language that was put before the voters. The specific ballot language is authorized through a Board Resolution which is utilized to prepare the ballot. See Education Code Section 15122. The primary case on the subject of restrictive language is Taxpayers for Accountable School Bond Spending v. San Diego Unified School District (2013) 215 Cal.App.4th 1013. This case is useful to review since the court prohibited the use of funds in the San Diego Unified School District bond finding that the project list was comprehensive and the planned athletic stadium and field lights project was not specifically listed. The Taxpayers for Accountable School Spending challenge was based on a very detailed and comprehensive list of projects and thus the court looked to whether the specific stadium project was listed.

It should be noted that the practice of listing all projects in detail is not a common practice when preparing ballot language. The more commonly utilized practice is preparing a general list of facilities projects. A case addressing the commonly prepared bond language – similar to most bond language and the bond language in Measure O -- is Committee for Responsible School Expansion v. Hermosa Beach City School District(2006) 142 Cal.App.4th 1178. This case reviews Article XIII A (1)(b)(3) of the State Constitution and concludes that the accountability language of the Constitution does not require a specific list of projects be made part of the ballot and that general language in the ballot referring to a project list meets the constitutional requirements and cites to Education code 15272. In the Hermosa case, the court found that even though the subject of the challenge, a gymnasium, was not specifically listed in the ballot, the general description included the intent to build a gymnasium and a specific listing was not required.

In the present case, Exhibit A provides language to construct and acquire sites. Which encompasses the UCR STEM project and the Casa Blanca project. However, the intent is even more specifically addressed with the Project list at Exhibit “B” which includes:

Partner with U.C. Riverside and Riverside City College to build a Center for the Study of Advanced Science, Technology, Engineering and Math, that will give local high school students access to college-level instruction....

Build new classrooms and facilities to relieve overcrowding...

...In addition to the projects listed above, the repair and renovation of each of the existing school facilities may include, but not be limited to, some or all of the following:

...acquire land; construct new schools... (emphasis added)

Thus, the ballot language not only specifically lists the UCR STEM Project but also anticipates acquiring property to construction new schools which is meant to address projects like the acquisition and future

Mays Kakish, Chief Business Officer

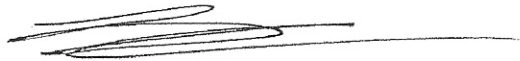
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development of schools. The specific location of a future school is both impractical and a poor practice to specify ahead of time, so listing new schools is consistent with past practice of school districts.¹

III. Conclusion

The language of the ballot includes both the UCR STEM Project and acquiring property for future schools. Please let me know if you have any questions or wish to discuss.

Sincerely



Terry Tao, AIA, Esq.

Tao Rossini, a Professional Corporation

Cc: David Casnocha
Sergio San Martin
Ana Gonzalez

¹ Specifying a site or location would be tantamount to inverse condemnation of property and would open the District to liability. Additionally, if the location was specified, speculators could manipulate property prices or implement subdivision applications to enhance the property value prior to acquisition. Thus, ballot language does not specify specific locations or parcels of land that are the subject of a future school.



FACT SHEET

RUSD STEM High School Update

BACKGROUND

In 2015, the Riverside Unified School District signed a Memorandum of Understanding agreement with University of California, Riverside (UCR) to expand STEM education opportunities for students in Riverside. As part of the agreement, the parties began discussion about the construction of a new, state-of-the-art STEM facility on the campus of UCR.

At the May 15th RUSD Board of Education meeting, District officials, engineers and architects discussed the feasibility of the proposed locations for the STEM school at UCR. The RUSD Board was considering two sites at UCR; "Lot 13" and the "Iowa Avenue Site." Although the Board's original recommendation was to build on Lot 13, after further careful consideration of building design and fiscal impact, they made a recommendation for the Iowa Avenue site at a later date.

Recently, at the July 17th Board Meeting, a term sheet was agreed upon by RUSD and UC's Office of the President (UCOP). The official lease was founded on the term sheet and was to be negotiated over the next six months.

UCR's Chancellor Kim Wilcox will continue to advocate with UCOP to ensure passage of the project by the UC Regents. RUSD will continue to work closely with UCR to create a desirable program that meets the goals of this partnership.

IMPORTANT UPDATE

The California Department of Pesticide Regulation (DPR) has proposed a regulation (DPR 16-004) which limits the proximity and frequency of pesticide application near schools.

Because of changes in State pesticide regulations, RUSD and UCR are collaboratively researching and evaluating alternative locations for construction of the new STEM High School.

Since UCR would be mandated to commit to the proposed pesticide regulation (if passed), this requirement will severely limit the collaborative plans to build a school on the original proposed site, as well as future collaborative endeavors.

DPR 16-004 - PESTICIDE USE NEAR SCHOOL SITES

DPR proposes to adopt sections 6690, 6691, 6692, and 6693 of Title 3, California Code of Regulations. In summary, the proposed action would require growers to notify public K-12 schools, child day care facilities, and county agricultural commissioners when certain pesticide applications made for the production of an agricultural commodity near a school site are planned in the coming year and also a few days prior to the applications. In addition, certain pesticide applications near these school sites will be prohibited at certain times.

NEXT STEPS

UCR is presenting two alternate sites for consideration: **Site 1** is currently used as a softball field and **Site 2** is currently used as a soccer field (See back for site maps). The RUSD Board of Education and key RUSD staff will collaborate with UCOP and review both sites for consideration on Tuesday, August 29, 2017. RUSD will work with UCOP to do proper research and investigate next steps for the future development of the STEM High School.

Additional next steps included hiring STEM personnel, completion of the instructional program and initial design of the facilities.

CONTACT INFORMATION

Sergio San Martin
Assistant Superintendent, Operations
Riverside Unified School District

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