POWAY UNIFIED SCHOOL DISTRICT

REQUEST FOR PROPOSALS FOR THE
LEASE, PURCHASE OR EXCHANGE OF SCHOOL
DISTRICT
SURPLUS REAL PROPERTY

Real property located at
the intersection of Carmel Valley Road and Camino Del Sur
within the incorporated area of the city of San Diego

Dated: November 19, 2019
I. INTRODUCTION AND BACKGROUND

The Poway Unified School District is seeking proposals from qualified parties (“Respondents”) who are interested in leasing, purchasing, or exchanging other property for, approximately 27.22 acres of vacant land located at the intersection of Carmel Valley Road and Camino Del Sur within the incorporated area of the city of San Diego (“Property”), as more particularly identified in the legal description and map depiction attached hereto as Exhibit “A.”

The District previously appointed a Surplus Property Advisory Committee to advise the District’s Board of Education in the development of District-wide policies regarding the use or disposition of District property not needed for school purposes. The Advisory Committee recommended declaring the Property surplus and disposing the Property as set forth herein.

The Education Code requires the District to follow a specific procedure to sell or lease surplus property which includes a public competitive bid process. However, the District sought and received a waiver from the California Department of Education which allows the District to use an alternative “Request for Proposal” procedure in which the District seeks proposals from any party interested in purchasing or leasing the Property pursuant to the conditions set forth in the District’s Request for Proposal (“RFP”). As noted below, the Education Code also allows school districts to exchange its real property by offering to exchange specific property to another entity in exchange for the District acquiring new real property. The District will assess all proposals and determine the best options for the District, whether it be a lease, purchase, or exchange of the Property, as described below.

The District anticipates that following the less formal RFP process will allow the District to determine whether a lease, purchase, or exchange will better accommodate the needs of both the District and the interested party. Respondents are encouraged to submit a proposal to lease, purchase or exchange the Property in accordance with the requirements set forth herein, and may submit proposals for all options. The District will review all submitted proposals pursuant to the Proposal Process discussed below. If the District is able to reach an agreement with any of the Respondents, the specific terms and legal considerations of the agreement will be documented in a formal agreement to be entered into by the District and the successful Respondent.

All proposals must be received by 2:00PM on February 3, 2020 (the “Proposal Deadline”).

II. THE PROPERTY

The Property, in total, is approximately approximate 27.22 acres of vacant land located at the intersection of Carmel Valley Road and Camino Del Sur within the incorporated area of the city of San Diego. The Property is also identified as Assessor’s Parcels 306-020-32, 306-250-27 and 312-293-11.

Approximately 0.51 acres of the Property is zoned RS-1-15, and the remaining 26.71 acres is zoned AR 1-1, designated as a Middle School site in the Torrey Highlands and Black Mountain Ranch Subarea Plans.

The subject is located within two different subarea plans that are a part of the greater North City Future Urbanizing Area (NCFUA), namely, the Black Mountain Ranch Subarea Plan and the Torrey
Highlands Subarea Plan. The North City Future Urbanizing Area is comprised of separate subareas encompassing approximately 12,000 acres located between Interstate 5 and Interstate 15. Primary access to the area is provided by State Route 56, which runs in a general east-west direction and connects to Interstate 15 to the east and Interstate 5 to the west.

The northern portion of the site is a part of the Black Mountain Ranch Subarea Plan. This plan primarily consists of two separate developments, commonly referred to as Del Sur and Santaluz. Del Sur comprises the northern half of Black Mountain Ranch while Santaluz is in the southern half. Del Sur will ultimately contain over 3,050 housing units, retail services, office/professional uses and numerous parks and recreational services. Upon completion, Santaluz will have over 1,000 dwelling units with lots ranging in size from approximately 5,000 square feet to significantly larger estate lots that will be several acres in size. The Black Mountain Ranch Subarea Plan designates approximately 29 percent of the community for residential development, 67 percent for parks, and open space, 2 percent for schools, and 2 percent for commercial and employment uses.

The southern portion of the subject site is located within the Fairbanks Highlands area of the Torrey Highlands Subarea Plan. Also located within the Torrey Highlands area are the communities of Pacific Highlands Ranch and Del Mar Mesa. The Torrey Highlands Subarea Plan (Subarea IV) was adopted by the City of San Diego in 1996 and consists of approximately 1,134 acres, not including the Fairbanks Highlands area. The planning principals adopted by the plan include both regional planning as well as balanced land use. It outlines the general framework for open space, streets, development boundaries, open space, design guidelines, community facilities and housing. The Subarea Plan limits the number of dwelling units to no more than 2,600. According to the City of San Diego, all of the dwelling units have been allocated. Overall, approximately 50 percent of Torrey Highlands was designated for residential development, 30 percent for open space and parks and eight percent for commercial related uses and employment centers. Approximately 12 percent of the land area was set aside for schools. More specifically, the subject site is located north of the intersection of Camino Del Sur and Carmel Valley Road. Both roads are considered to be major thoroughfares. A significant amount of land has been set aside as open space in both community plans. The subarea plans designate the subject site for use as a middle school with an underlying zoning designation of AR-1-1 (agricultural). The developed areas surrounding the subject have been primarily designated for residential use or open space, with a few sites developed with religious facilities.

The immediate neighborhood is primarily residential in character. Access to State Highway 56 is located a short distance south with a full interchange at Camino Del Sur and Highway 56. There are several schools located within a mile of the subject, including Adobe Bluffs Elementary School, Willow Grove Elementary School, Deer Canyon Elementary School, Mesa Verde Middle School and Westview High School. Neighborhood shopping is located off Camino Del Sur.

1. Proposition A Managed Growth Initiative

Please note that the Property may be subject to the approval process required by the City of San Diego’s Proposition A, known as the “Managed Growth Initiative.” In summary, Proposition A is a voter-approved proposition that passed in 1985 any requires any change to the City’s General Plan to be approved through a majority vote of the people voting at a City-wide election. The City’s Policy No. 600-30 (the “Policy”), attached as Exhibit B for reference, explains the specific process used by the City to address the Proposition A zoning requirements. The District has not independently confirmed that the Proposition A approval process will be required for the Property. However, the District’s initial analysis suggests it may apply to the Property, depending on the proposed development.
Specifically, the subject site is unique in that it is designated for use as a school site but carries the AR-1-1 zoning designation. An argument may be made that because the Property is essentially already approved as a school site, that a different institutional use should be approved through a discretionary process rather than a vote of the people. However, a definitive answer from City staff as to the development potential of the site has not been provided, and such an answer may require a specific use to be proposed and the discretionary review process started. Furthermore, many more likely development proposal concepts would likely require that the Prop A approval process be followed.

Information contained in this RFP regarding Proposition A, including Exhibit B, is provided for informational purposes only. All Respondents are solely responsible for determining how Proposition A, and the associated City Municipal Codes and any applicable law, apply to the Property and their proposed developments.

2. Right of First Refusal

The District acquired the Property through Transfer Agreements that grant the prior owners (“Prior Owners”) a “Right of First Refusal” before the District can transfer ownership of the Property. Therefore, these Right of First Refusal provisions will apply to the purchase or exchange of the Property (but not a lease). The Rights of First Refusal are identical and, in summary, require the District to provide the Prior Owners with written notice of the terms of a potential Property transfer before completing the transfer of the Property to another entity. The Prior Owners then have thirty (30) days to acquire the Property based on the same terms and conditions. If the Owners do not exercise their option within this thirty (30) day window, the District may complete the transaction with the other entity under the same terms and conditions as announced to the Prior Owners.

The District will comply with this Right of First Refusal requirement by including a provision in the final agreement with the selected Respondent. Specifically, this provision will require the District to provide the required written notice to the Prior Owners and allow the District to terminate the agreement with the selected Respondent if either of the Prior Owners exercises their right to acquire the Property during the thirty (30) day period. In the alternative, the District, in its sole discretion, may elect to provide such notice to the Prior Owners immediately prior to entering into a final agreement with the selected Respondent. Finally, please note that the District and the selected Respondent cannot materially change the terms and conditions of their agreement once notice is provided to the Prior Owners because any such change(s) could re-invoke the Right of First Refusal provisions.

III. QUALIFICATIONS/PROPOSAL REQUIREMENTS

The District will consider proposals to: 1) purchase the Property pursuant to a purchase and sale agreement (“Purchase Agreement”), 2) lease the Property pursuant to a long term ground lease of the Property in a manner which allows for its development (a “Lease”), and/or 3) exchange the Property for another property identified by the Respondent, or to be identified at a later date by the Respondent and the District (“Exchange Agreement”). Therefore, Respondents may submit proposals seeking to acquire the Property through any or all of these options. The District shall review the submitted proposals and determine, at its sole discretion, whether to pursue a purchase, lease, or exchange of the Property (or any particular portion thereof) based on the responses received and in accordance with the process set forth herein. Proposals shall comply with the requirements established in this RFP.
1. GENERAL QUALIFICATIONS

All Respondents seeking to enter into a Purchase Agreement, Lease or Exchange Agreement for the Property must provide the following basic information:

1. Name and contact information of person/private business firm.

2. A statement of financial qualifications that includes the following information:
   a. Is the Respondent a subsidiary of, or affiliated with, any other corporation, corporations, partnerships or firms? If so, please specify. If the Respondent is a subsidiary, please indicate the extent to which the parent entity will guarantee performance by the subsidiary.
   b. Names and addresses of three financial references, including a primary bank.
   c. Has the Respondent or its officers, principal members, shareholders or investors, or any of its parent, subsidiary or affiliated entities or other interested parties been adjudged bankrupt, either voluntary or involuntarily, within the past ten years? If so, explain.
   d. Is there pending litigation against the Respondent entity or its officers, principal members, shareholders or investors, or any parent, subsidiary or affiliated entities or other interested parties other than minor personal injury suits involving claims under $250,000? If so, explain.
   e. Audited financial statements for the previous three years for the Respondent with whom the District will contract or, in the likely event that the contracting entity is a newly formed special purpose entity, the member or members of that entity who will be responsible for financial obligations and on whom the District should rely for financial performance whether or not the final formal documentation calls for guarantees.
   f. Report from any financial credit rating service for the Respondent with whom the District will contract or, in the likely event that the contracting entity is a newly formed special purpose entity, the member or members of that entity who will be responsible for financial obligations and on whom the District should rely for financial performance whether or not the final formal documentation calls for guarantees.
   g. Any other financial statements and/or other documents that would indicate acceptable financial standing and the ability of Respondent to fund the proposed lease of the Property.

Item(s) submitted should be sufficient to permit the District to determine the Respondent’s financial capacity to fund the proposed lease, purchase, or exchange of the Property. The Respondent may wish to mark his/her financial statements, as “CONFIDENTIAL” or “PROPRIETARY.” As such, it will be treated as confidential by the District to the extent permitted by law, as discussed in Section VI below.
3. All responses submitted must be accompanied by a cashier’s check for $20,000 payable to Poway Unified School District. All checks, except that received from the successful Respondent, shall be returned upon the selection of the successful Respondent. The check from the successful Respondent shall be retained by the District upon proposal selection by the Board, and such funds shall remain non-refundable to the successful Respondent and non-applicable to the transaction, as these funds are required to cover all or a portion of the District’s costs to negotiate and draft a potential agreement.

2. REQUIREMENTS FOR LEASE PROPOSALS

Respondents interested in leasing the Property shall provide the following information in addition to the General Qualification information discussed above.

The purpose of this RFP is to give Respondents the flexibility to submit proposals that will meet their specific needs. However, the following guidelines are provided to summarize the terms that the District would like to see within the lease agreement. Respondents will be required to enter into a lease agreement drafted by the District which will include the terms discussed herein and in Respondent’s proposal. The District may consider all Respondents submitted pursuant to this RFP and, at its sole discretion, may enter into direct negotiations with any Respondent during which the terms and conditions of the lease may be negotiated to determine if the Parties can reach a mutually acceptable lease agreement. However, the following guidelines are provided to indicate the terms that the District is likely to accept and/or require.

- The District will give high priority to the Respondent offering the highest rent, both in terms of monthly rental payments as well as total payment over the term of the lease.

- Respondents should discuss how the property will be returned to the District at the end of the Lease including any special considerations the Respondent will provide, such as providing the District with new structures at the end of the Lease.

- Respondent must identify the total length of the lease term. The District is willing to consider any proposed term depending on the features of a particular proposal. The District is also willing to consider optional extension periods whereby the Respondent agrees to lease the Property for a certain initial term with the right (unilateral or mutual) to agree to one or more additional term(s) after the initial term expires.

- Respondent may request a “Due Diligence Period” to take any and all actions Respondent deems necessary to ensure the Property can be used for the Respondent’s intended use. Respondent shall identify the total number of days required for the “Due Diligence Period” but the District may give special consideration to Respondents who seek a shorter Due Diligence Period to begin after execution of the Lease Agreement. During the Due Diligence Period, the Respondent may request access to the Property to conduct inspections, testing, and investigations on the Property to determine if the Property is acceptable. Respondent must describe the anticipated activities it will conduct on the Property to complete its inspection requirements and must confirm that it will return the Property to its original condition after its due diligence inspections. Respondents must acknowledge and consider that their access to the Property during the Due Diligence Period must be coordinated with the District, and Respondent must provide customary indemnification and insurance for such access and investigation.
• Respondents cannot rely on any statement or document provided by the District to assess the viability of the Property, and therefore must use the Due Diligence Period to conduct all investigations it deems necessary to assess the Property.

• If a Due Diligence Period is requested, Respondent shall also identify a Good Faith Deposit that will be provided to the District in consideration for the Due Diligence Period. Respondent may terminate the lease agreement during the Due Diligence Period for any reason. However, upon termination, the District shall keep the Good Faith Deposit. If Respondent does not terminate the lease agreement during the Due Diligence Period, the Good Faith Deposit shall be applied towards Respondent’s rental payments. If Respondent requests the option to extend the Due Diligence Period beyond the initial period, it must also identify additional Good Faith Deposits that will be provided to the District if Respondent exercises the due diligence extensions.

• Respondent should identify the potential governmental agency reviews and approvals necessary for its anticipated use of the Property, including rezoning, conditional use permits, and any anticipated environmental review document. Respondent may request the District’s assistance in obtaining any necessary approvals during the Due Diligence Period. However, such assistance shall not be mandatory and shall be provided at no cost to the District, whatsoever. Respondent must confirm that it will be solely responsible for obtaining any necessary approval for the Respondent’s intended use of the Property.

• Respondent must describe in detail the anticipated use of the Property during the lease. The District will accept any use that complies with local zoning and all applicable regulations, including any and all proposed zoning/entitlement modification(s) anticipated by Respondent, but will give special positive consideration to any use that aids the local economy or provides a benefit to local community, and/or provides Respondent with a source of income that can be used to pay its Property rent obligations.

• Respondent must address how its intended use of the Property will impact the surrounding facilities and how such impacts will be mitigated by Respondent. Such considerations shall include all traffic and access issues related to the intended use, and how such proposed traffic and access will be accomplished (i.e., Respondent will note if acquisition of the Property is adequate for its purposes, or if other access easement(s), further transfer of acreage, or other shared use may be necessary to accomplish its goals with respect to its intended project).

• The District will consider any requests from Respondent to make physical changes to the Property after the Respondent executes the Lease (“Property Adjustments”). Respondent must agree to include a provision within the lease agreement indemnifying the District, and all District employees from any claim, harm, damage, or demand arising from any work performed on the Property at the request of the Respondent. The District is willing to cooperate with Respondent to accomplish any Property Adjustments Respondent deems necessary to ensure the Property meets its intended use. Respondent shall describe the work requested from the District in detail in its proposal.

• Respondent shall identify the insurance it will carry during the entire term of the lease agreement, which should include liability insurance for claims arising from the Respondent’s use of the Property. The Proposal should identify the limits on its insurance coverages.
• Respondent shall confirm that it will be responsible for any hazardous material it uses on the Property during the lease agreement.

• Respondent may request the right to let, sublet or license the whole or portion of the Property (a “Sublet”) upon obtaining prior written consent of the District of the specific Sublet. However, Respondent must confirm that it will remain solely liable for all financial obligations established by the Lease Agreement if Respondent enters into any Sublet.

• The District’s fee interest in the Property shall not be subordinated at any time during the Lease.

3. REQUIREMENTS FOR PURCHASE PROPOSALS

Respondents interested in purchasing the Property pursuant to a Purchase Agreement, shall provide the following information in addition to the General Qualification information discussed above.

The purpose of this RFP is to give Respondents the flexibility to submit proposals that will meet their specific needs. However, the following guidelines are provided to summarize the terms that the District would like to see within the Purchase Agreement. Respondents will be required to enter into a Purchase Agreement drafted by the District which will include the terms discussed herein and in Respondent’s proposal. The District may consider all Respondents submitted pursuant to this RFP and, at its sole discretion, may enter into direct negotiations with any Respondent during which the terms and conditions of the Purchase Agreement may be negotiated to determine if the Parties can reach a mutually acceptable agreement. However, the following guidelines are provided to indicate the terms that the District is likely to accept and/or require.

• The District will give high priority to the Respondent offering the highest purchase price. Proposals must state the total amount that the Respondent is willing to pay to acquire the Property.

• Respondent may request a “Due Diligence Period” to take any and all actions Respondent deems necessary to ensure the Property can be used for the Respondent’s intended use. Respondent shall identify the total number of days required for the “Due Diligence Period” but the District may give special consideration to Respondents who seek a shorter Due Diligence Period to begin after execution of the Purchase Agreement. During the Due Diligence Period, the Respondent may request access to the Property to conduct inspections, testing, and investigations on the Property to determine if the Property is acceptable. Respondent must describe the anticipated activities it will conduct on the Property to complete its inspection requirements and must confirm that it will return the Property to its original condition after its due diligence inspections. Respondents must acknowledge and consider that their access to the Property during the Due Diligence Period must be coordinated with the District, and Respondent must provide customary indemnification and insurance for such access and investigation.

• Respondents cannot rely on any statement or document provided by the District to assess the viability of the Property, and therefore must use the Due Diligence Period to conduct all investigations it deems necessary to assess the Property.
If a Due Diligence Period is requested, Respondent shall also identify a Good Faith Deposit that will be provided to the District in consideration for the Due Diligence Period. Respondent may terminate the agreement during the Due Diligence Period for any reason. However, upon termination, the District shall keep the Good Faith Deposit. If Respondent does not terminate the agreement during the Due Diligence Period, the Good Faith Deposit shall be applied towards Respondent’s purchase price. If Respondent requests the option to extend the Due Diligence Period beyond the initial period, it must also identify additional Good Faith Deposits that will be provided to the District if Respondent exercises the due diligence extensions.

The District prefers a short escrow period. However, a longer escrow will be evaluated against deposit amounts, interest payments on the unpaid balance during escrow, and other financial and timing factors in the total context of the offer(s). The RFP response should identify the escrow timeframe sought by the Respondent after the Due Diligence Period, as well as the deposit and interest payments the Respondent is willing to pay.

Respondent should identify the potential governmental agency reviews and approvals necessary for its anticipated use of the Property, including rezoning, conditional use permits, and any anticipated environmental review document. Respondent may request the District’s assistance in obtaining any necessary approvals during the Due Diligence Period. However, such assistance shall not be mandatory and shall be provided at no cost to the District, whatsoever. Respondent must confirm that it will be solely responsible for obtaining any necessary approval for the Respondent’s intended use of the Property.

Respondent must describe in detail the anticipated use of the Property. The District will accept any use that complies with local zoning and all applicable regulations, including any and all proposed zoning/entitlement modification(s) anticipated by Respondent, but will give special positive consideration to any use that aids the local economy or provides a benefit to local community.

Respondent must address how its intended use of the Property will impact the surrounding facilities and how such impacts will be mitigated by Respondent. Such considerations shall include all traffic and access issues related to the intended use, and how such proposed traffic and access will be accomplished (i.e., Respondent will note if acquisition of the Property is adequate for its purposes, or if other access easement(s), further transfer of acreage, or other shared use may be necessary to accomplish its goals with respect to its intended project).

4. REQUIREMENTS FOR EXCHANGE PROPOSALS

The District may exchange the Property in accordance with Education Code Section 17536 et seq. These sections provide that the governing board of a school district may exchange any of its real property for the real property of another person or private business firm. The District may not exchange property with another public agency. Said exchange may be upon the terms and conditions agreed to by the parties and need not comply with other Education Code provisions governing the disposal of surplus property.

Before ordering the exchange of real property the governing board must adopt, by a two-thirds vote of its members, a resolution declaring its intention to exchange the property. The resolution must describe the properties to be exchanged, including identifying information and the terms and conditions upon which they will be exchanged.
The District must obtain properties of similar value to the Property through the exchange agreement. Thus, Respondents must identify potential properties to be exchanged (the “Offered Properties”) for the District Property and demonstrate the value of the Offered Properties are of similar value to the District Property. The District, at its sole discretion, shall determine whether the Offered Properties meet the District’s needs. However, Respondents are encouraged to provide any and all information regarding the Offered Properties necessary to demonstrate their potential use and benefit to the District. Respondents may offer multiple Offered Properties. Furthermore, Respondents may structure proposals similar to a purchase proposal wherein the potential properties to be exchanged for the Property shall be identified by the Respondent and the District at a later date — including during the applicable escrow period.

Finally, a successful Respondent submitting any exchange proposal(s) will be required to enter into an Exchange Agreement drafted by the District, which will include the terms discussed herein and in Respondent’s proposal. The District may consider all Respondents submitted pursuant to this RFP and, at its sole discretion, may enter into direct negotiations with any Respondent during which the terms and conditions of the Exchange Agreement may be negotiated to determine if the Parties can reach a mutually acceptable agreement. However, the following guidelines are provided to indicate the terms that the District is likely to accept and/or require.

- The District will give high priority to the Respondent offering the highest exchange price. Proposals must state the total amount that the Respondent is willing to offer for the exchange of the Property, so that a value may be set for the Property and any identified exchange property (or exchange property to be identified at a later date).

- Respondent may request a “Due Diligence Period” to take any and all actions Respondent deems necessary to ensure the Property can be used for the Respondent’s intended use. Respondent shall identify the total number of days required for the “Due Diligence Period” but the District may give special consideration to Respondents who seek a shorter Due Diligence Period to begin after execution of the Exchange Agreement. During the Due Diligence Period, the Respondent may request access to the Property to conduct inspections, testing, and investigations on the Property to determine if the Property is acceptable. Respondent must describe the anticipated activities it will conduct on the Property to complete its inspection requirements and must confirm that it will return the Property to its original condition after its due diligence inspections. Respondents must acknowledge and consider that their access to the Property during the Due Diligence Period must be coordinated with the District, and Respondent must provide customary indemnification and insurance for such access and investigation.

- Respondents cannot rely on any statement or document provided by the District to assess the viability of the Property, and therefore must use the Due Diligence Period to conduct all investigations it deems necessary to assess the Property.

- If a Due Diligence Period is requested, Respondent shall also identify a Good Faith Deposit that will be provided to the District in consideration for the Due Diligence Period. Respondent may terminate the agreement during the Due Diligence Period for any reason. However, upon termination, the District shall keep the Good Faith Deposit. If Respondent does not terminate the agreement during the Due Diligence Period, the Good Faith Deposit shall be applied towards Respondent’s exchange price, if applicable. If Respondent requests the option to
extend the Due Diligence Period beyond the initial period, it must also identify additional Good Faith Deposits that will be provided to the District if Respondent exercises the due diligence extensions.

- The District prefers a short escrow period. However, a longer escrow will be evaluated against deposit amounts, interest payments on the unpaid balance during escrow, and other financial and timing factors in the total context of the offer(s). The RFP response should identify the escrow timeframe sought by the Respondent after the Due Diligence Period, as well as the deposit and interest payments the Respondent is willing to pay.

- Respondent should identify the potential governmental agency reviews and approvals necessary for its anticipated use of the Property, including rezoning, conditional use permits, and any anticipated environmental review document. Respondent may request the District’s assistance in obtaining any necessary approvals during the Due Diligence Period. However, such assistance shall not be mandatory and shall be provided at no cost to the District, whatsoever. Respondent must confirm that it will be solely responsible for obtaining any necessary approval for the Respondent’s intended use of the Property.

- Respondent must describe in detail the anticipated use of the Property. The District will accept any use that complies with local zoning and all applicable regulations, including any and all proposed zoning/entitlement modification(s) anticipated by Respondent, but will give special positive consideration to any use that aids the local economy or provides a benefit to local community.

- Respondent must address how its intended use of the Property will impact the surrounding facilities and how such impacts will be mitigated by Respondent. Such considerations shall include all traffic and access issues related to the intended use, and how such proposed traffic and access will be accomplished (i.e., Respondent will note if acquisition of the Property is adequate for its purposes, or if other access easement(s), further transfer of acreage, or other shared use may be necessary to accomplish its goals with respect to its intended project).

IV. PROPOSAL PROCESS

1. The District will begin accepting proposals upon date of issuance of this RFP, and will continue to accept proposals until the Proposal Deadline of **2:00pm on February 3, 2020**. Proposals must be submitted to the address set forth below. Respondents are solely responsible for ensuring their Proposals are received by the deadline set forth herein. All dates herein are subject to change at the sole discretion of the District.

2. Respondents may submit multiple alternative proposals to exchange, purchase or lease the Property. However, Respondents must clearly establish the terms and conditions applicable to their proposed agreements.

3. Proposals shall include ten (10) copies of the proposal along with any exhibits, colored pages, brochures or other marketing materials are to be included. Respondents submitting fewer than ten (10) copies may be considered “non-responsive.”

4. All Proposals should be verified before submission. Adjustments will not be permitted after submission to the District. The District will not be held responsible for any errors or omissions on the
part of the Respondent in the preparation of their Proposal. The District reserves the right to reject any and all submittals, or to waive any irregularities or information in the submittals. As noted above, the District further reserves the right to further negotiate with some, any, or all of the Respondents to establish the specific terms of the agreement to lease, purchase, or exchange the Property.

5. Proposals may be mailed or delivered to the address listed at the end of this RFP. All proposals shall be sealed and clearly marked: “Poway Unified SD Property Proposal.” Respondents shall be solely responsible for ensuring its proposal arrives to the District by the deadline set forth above. The District shall not be responsible for any issues with mail delivery or circulation.

6. Telephone or electronic submittals will not be accepted.

7. Any costs incurred by the Respondents in the preparation of any information or material submitted in response to this RFP shall be the sole responsibility of the Respondent. The District will not pay for any broker’s commission and/or finder’s fee incurred by the Respondent applicable to the Property.

8. The District reserves the right to reject any and/or all responses, refuse to negotiate or to withhold the award of any contract for any reason. The District may also waive or decline to waive irregularities in any Proposal.

9. The District may begin negotiations with selected Respondents at the District’s discretion. If negotiations are successful, the District’s Board may invite one or more Respondents to present its/their proposal(s) to the Board.

10. Upon selection of a Respondent, the District shall provide an agreement for negotiation by the Parties which will set forth the terms of the Lease, Purchase Agreement, or Exchange Agreement. The District reserves the right to terminate this process at any point prior to the selection of the successful Respondent and solicitation of proposals in no way obliges the District to proceed with any transaction.

V. PUBLIC NATURE OF PROPOSAL MATERIAL

Responses to this RFP become the exclusive property of the District. All Proposals received in response to this RFP become a matter of public record and shall be regarded as public records, with the possible exception of those elements in each proposal as follows: Proposers may mark portions of their response which are defined by the Proposer as business or trade secrets and plainly marked as “Confidential,” “Trade Secret,” or “Proprietary”; however, the District does not guarantee that any information so marked will be protected from public disclosure. Proposers recognize that the District, as a public agency, is subject to disclosure requirements of the California Public Records Act. Any Proposal which contains language purporting to render all or significant portions of the proposal “Confidential,” “Trade Secret,” or “Proprietary” shall may be rejected or regarded as non-responsive.

Although the California Public Records Act recognizes that certain confidential trade secret information may be protected from disclosure, the Poway Unified School District shall not be in a position to establish that the information contained in any Proposal is a trade secret. If a Public Records Act request is made for information marked “Confidential,” “Trade Secret,” or “Proprietary,”
the District will provide the entity making the Proposal in question with reasonable notice before releasing the information. However, the District will comply with its Public Records Act requirements unless the entity making the Proposal seeks and obtains protection from disclosure by a court of competent jurisdiction.

VI. RECEIPT OF PROPOSALS; CONTACT INFORMATION

Proposals shall be received by, and additional information may be obtained from, the following “District Contacts”:

Andreas C. Chialtas  
Atkinson, Andelson, Loya, Ruud & Romo  
12800 Center Court Drive, Suite 300  
Cerritos, CA 90703  
(562) 653-3460  
achialtas@aalrr.com

Dr. Barry Blade  
Property Consulting for Schools  
1431 Cerritos Drive  
Laguna Beach, CA 92651  
(949) 290-4132  
barryblade@me.com

Any questions regarding the Property or the RFP process must be emailed to the District Contacts pursuant to the requirement of the Questions section below.

All RFP responses must also be addressed and delivered to the District Contacts by the Proposal Deadline at the address above, through hand delivery or mail. The District is not responsible for any problems or issues with the mail delivery system and therefore, Respondents must take all acts necessary to ensure the delivery of the RFP response. All correspondence with the District Contacts should be done in writing: Any oral statement made to or by the District Contacts shall not be considered part of the RFP and shall in no event bind the District.

VII. QUESTIONS

Any party who has questions about the Property may submit questions in writing to the District via email at achialtas@aalrr.com or barryblade@me.com to the District Contacts above. The District shall respond to all questions submitted on or before 5:00 PM on January 13, 2020 in writing via an addendum which will be posted on the District’s website at


The District’s addendum will be posted on or before 5:00 PM on January 20, 2020. The District shall not provide responses to any oral questions and any oral statement made by any person shall not be construed as part of the District’s RFP package.
VIII. CONDITIONS AND LIMITATIONS

This RFP does not represent an offer or commitment by Poway Unified School District to enter into an agreement with a Respondent or to pay any costs incurred in the preparation of a response to this request. The proposal and any information made a part of the proposal will not be returned to Respondent.

Respondent may request that the District provide certain representations and warranties regarding the District’s ownership of the Property, including warranty that the District holds fee title in and to the Property without competing claims to possession. However, Respondent must take sole responsibility for conducting all the inspections necessary to determine that the Property is suitable for the Respondent’s intended purpose.

The Respondent shall not collude in any manner or engage in any practices with any other Respondent(s) that may restrict or eliminate competition or otherwise restrain trade. Violation of this instruction will cause the Respondent’s submittal to be rejected by the District. The prohibition is not intended to preclude joint ventures or subcontracts that are identified in the proposal.

The District has sole discretion and reserves the right to reject any and all proposals received with respect to this RFP and to cancel the RFP at any time prior to entering into an agreement for the lease, purchase or exchange of the Property. It should be noted explicitly that there is no “bidding” process intended with this submission review process, and this invitation is not an offer by the District to enter into an agreement to negotiate or any other agreement, nor is a response by an interested party to be considered as an offer that may be accepted by the District. Neither the District nor any Respondent will be bound to any agreement unless that agreement is in writing, approved by the District’s Board, and executed by both the interested party and an official authorized by District.

The District reserves the right to request clarification of the RFP or additional data without changing the terms of the RFP. The District reserves the right to reject any response or all responses, to terminate discussions and to select any party with whom to deal, whether or not that party has responded to this RFP. The District may entertain or make a proposal that may not conform to this RFP and may adopt terms that may have been proposed by a party not selected. Decisions of the District may be based on subjective as well as objective evaluations.
EXHIBIT “A”

LEGAL DESCRIPTION, MAP DEPICTIONS, AND PHOTOGRAPHS OF PROPERTY

Legally be described as follows:

APN 306-020-32: Lot 94 of Fairbanks Highlands, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 13796, filed in the Office of the County Recorder of San Diego County June 3, 1999.

APN 306-250-27: That portion of Lot 2 of Olive Grove Tract, together with the unnamed County Road, in the City of San Diego, State of California, according to Map thereof filed in Book 24, Page 297 of Miscellaneous Records of the Office of the County Recorder of San Diego County lying Northerly of that parcel of land granted to the City of San Diego per deed recorded April 1, 1998 F/P No. 1998-0180426 O.R. in the Office of the County Recorder of San Diego County.

APN 312-293-11: Parcel 6 of Parcel Map 17996, in the City of San Diego, County of San Diego, State of California, according to Map thereof, filed in the Office of the County Recorder of San Diego County March 11, 1998.
Outline location of Property:
Arial photograph of Property:

Aerial photograph delineating the subject property.
Photographs of Property:

Looking in a general northerly direction from near the southernmost corner of the property.

Looking in a southwesterly direction across a portion of the subject property. Carmel Valley Road is visible in the left hand side of the photo.
EXHIBIT “B”

CITY OF SAN DIEGO COUNCIL POLICY
SUBJECT: GENERAL PLAN AMENDMENTS TO SHIFT LAND FROM FUTURE URBANIZING TO PLANNED URBANIZING AREA

POLICY NO.: 600-30

EFFECTIVE DATE: October 26, 1993

BACKGROUND:

The residential growth management program (see Progress Guide and General Plan, “Guidelines for Future Development”) is premised upon the division of the City into three planning areas: Urbanized, Planned Urbanizing, and Future Urbanizing, each of which is characterized by certain planning factors and each of which interrelates with the other areas. Existing City policies specify the characteristics of and the objectives to be achieved in each of these areas. See e.g., Council Policy No. 600-28 — “Requirements for Development Approval in Planned Urbanizing Areas” and Council Policy No. 600-29 — “Maintenance of Future Urbanizing Areas as an Urban Reserve.”

The delineation of these three areas is not static. Thus, as developing communities build out completely and stabilize, they may assume more of the characteristics of the Urbanized rather than the Planned Urbanizing area, and a shift may be in order. Similarly, as the Planned Urbanizing area is built out and additional land needs to be made available for development, it will be necessary to shift land from the Future Urbanizing to the Planned Urbanizing area to accommodate the demand for growth.

Most land shifts will be made as part of the City’s five year general plan update. In exceptional situations, however, the Council may, on its own motion or on petition by a property owner, consider land shifts during the interim period between plan updates.

As a result of voter approval of Proposition A (Managed Growth Initiative) at the election on November 5, 1985, any shift from Future Urbanizing area as the same existed in the Progress Guide and General Plan on August 1, 1984 to another designation must be approved by the voters.

PURPOSE:

The purpose of this Council Policy is to specify the guidelines and requirements for effecting a shift of land from the Future Urbanizing to the Planned Urbanizing area in accordance with the Progress Guide and General Plan. This policy applies to all such shifts of land prior to General Plan Amendment.

POLICY:

A. No land shall be shifted from the Future Urbanizing area as the same existed in the Progress Guide and General Plan on August 1, 1984 to the Planned Urbanizing Area except by a General Plan Amendment approved by the City Council and approved by majority vote of the people voting on the shift at a City-wide election thereon.

B. Once land is shifted to the Planned Urbanizing area, rezoning and/or any subsequent development approval shall be in accordance with otherwise applicable requirements,
C. General Plan amendments to effect a shift of land from the Future Urbanizing to the Planned Urbanizing Area shall be initiated by the City on its own motion or by a property owner.

D. Threshold Determination

1. When a property owner seeks a general plan amendment, the property owners shall apply for such an amendment on forms prescribed by the City.

2. The property owner’s application shall be forwarded to the City Council for a threshold determination as to whether, following more detailed review, there is a reasonable basis for applying a substantive review of the application to the land in question, without prejudice to the Council’s ability to grant or deny said application upon final substantive review. General Plan amendments are exempt from the threshold determination requirement provided that they are consistent with an adopted land use plan which has been determined by Council to satisfy any of the findings specified below. In the case of the North City Future Urbanizing Area, the North City Future Urbanizing Area Framework Plan, as approved by the Coastal Commission on May 14, 1993, is applicable. The application would proceed directly to the Planning commission for substantive review and recommendation to Council.

A reasonable basis for applying a substantive review of the application of this policy to the land in question shall exist if the City Council finds, based on the information provided to it, that:

a. The amendment may be needed to provide additional land for development, based on the City monitoring of the amount, rate, character and location of growth and development or in order to maintain a viable market;

b. The amendment may be responsive to population and growth rates which demand increased land availability;

c. Due to the limited size of the area in question and the nature of the proposed development, the amendment may not contribute to, encourage or induce urban sprawl, leapfrog development or premature development of land;

d. The amendment may provide the City with substantial and unique public benefits.

3. If the City Council makes any of the findings specified in paragraph D.2. above, the Council shall refer the amendment to the Planning Commission for substantive review pursuant to the provisions of this Policy. If the Council does not make any of the above findings, the application shall be denied.

4. In making its threshold determination, the Council may allow the applicant to make an oral presentation. The Council may also request the preliminary views of staff regarding the merits of the application.
E. Further Evaluation

1. If the Council refers an application back to the Planning Commission for more detailed review, a community, specific or precise plan for the area shall be prepared to be adopted concurrently with the General Plan amendment. This plan is intended to provide supporting information to the voters regarding future land use if the General Plan amendment is approved.

2. The application and associated land use plan shall be evaluated by staff, which shall prepare a Planning Report, including an evaluation of the applicable paragraphs (G, H, and/or I) of this Council Policy, and be subject to environmental review.

3. Following staff review, the application shall be forwarded along with the findings of the Planning Report and the environmental document, to the Planning Commission for review and recommendation.

4. The Planning Commission’s recommendations shall subsequently be forwarded to the City Council for review and action.

5. The determination of the City Council shall be legislative in nature, and the Council shall retain complete discretion to grant or deny said application, based upon the factors set forth in this Council policy.

F. Election

1. Following City Council approval of said application, the General Plan Amendment shall be brought before the voters for final action. The election procedure for the General Plan Amendment shall be referred to the Rules Committee for review and comment prior to City Council action to place the Amendment on the Ballot of a City-wide election. The General Plan Amendment shall be effective only after it is approved by majority vote of the people voting on the shift at a City-wide election thereon.

2. Election options for submittal of an amendment to the voters include placing the measure on the ballot at

   a. Municipal elections held in September or November of the odd-numbered years provided the election includes the entire City electorate. (Charter Section 10)

   b. Statewide primary or Statewide general elections held in June and November, respectively, in the even-numbered years. (Elections Code Sections 2550 and 2551)

   c. Special elections called to be held at dates other than the scheduled dates of (a) or (b), above. (Muni. Code Section 27.2005)

3. The cost of placing an applicant’s measure on the ballot for voter approval at the Statewide primary or Statewide general elections shall be borne by the City.
4. If an applicant opts to pay the cost of placing a measure on the ballot of a municipal elections of the entire City electorate in odd-numbered years, or pay the cost of a special election, 2(c) above, Council may order the measure to be voted on at such election. The applicant shall deposit the estimated cost with the Auditor and Comptroller no later than five (5) business days before the date on which the Council is scheduled to adopt the ordinance calling the election on which the measure is to appear. The City shall apply the funds as necessary in making advance payments to the Registrar of Voters in compliance with the Board of Supervisor’s advance payment policy for elections. If actual costs exceed the estimate, the applicant shall be billed the difference. Any deposited amounts that exceed actual costs shall be reimbursed.

G. Proposed amendments shall be classified as “incremental” or “substantial” based upon an evaluation of the following factors:

1. Amount of land involved;
2. Contiguity to Planned Urbanizing area and character of that area;
3. Relationship to contiguous Planned Urbanizing area;
4. Ability to be serviced by facilities and utilities extended from Planned Urbanizing area;
5. Access;
6. Environmental impact;
7. Type and density of land uses proposed;
8. Fiscal and economic impact; and

H. If based upon the above-mentioned classification, the proposed amendment is characterized as “incremental,” findings shall be made as to the following:

1. The extent to which the amendment will contribute to, encourage or induce urban sprawl, leapfrog development or premature development of land;
2. The extent to which the amendment will affect prime agricultural land;
3. The consistency of the amendment with adopted General Plan policies and guidelines;
4. Whether the subject area can logically be developed pursuant to existing policies applicable to the Planned Urbanizing area; and
5. The extent to which the proposed amendment serves to achieve or furthers other adopted City policies and objectives, which policies and objectives shall be specified.
I. If based upon the above mentioned classifications, the proposed amendment is characterized as “substantial,” findings shall be made as to each of the factors listed above (Section H), as well as the following:

1. The extent to which the amendment is needed to provide additional land for development, based upon City monitoring of the amount, rate, character and location of growth and development;

2. The extent to which the amendment is responsive to population and growth rates which demand the increased land availability for development in order to maintain a viable market;

3. The extent to which the amendment will impact on development in the Urbanized and Planned Urbanizing areas;

4. Whether the City can efficiently and economically provide, operate and maintain public facilities, utilities, and services to the subject area;

5. Whether the amendment will result in increased air or water pollution or increased traffic congestion; and

6. The consistency of the amendment with established state and federal urban policies.

HISTORY:

Adopted by Resolution R-254648  07/20/1981
Amended by Resolution R-259846  12/13/1983
Amended by Resolution R-259983  01/17/1984
Amended by Resolution R-264708  12/16/1985
Amended by Resolution R-280786  10/01/1992
Amended by Resolution R-282900  10/26/1993