



## **MORGAN HILL UNIFIED SCHOOL DISTRICT**

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December 12, 2016

### **VIA EMAIL DELIVERY**

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### **VIA HAND DELIVERY**

Steve Tate, Mayor, City of Morgan Hill

Larry Carr, Council Member, City of Morgan Hill

Rich Constantine, Council Member, City of Morgan Hill

Marilyn Librers, Council Member, City of Morgan Hill

Gordon Siebert, Council Member, City of Morgan Hill

Michael Roorda, City Treasurer, City of Morgan Hill

17575 Peak Ave.

Morgan Hill, CA 95037

**Re: December 14, 2016 Meeting of the City Council**

**Agenda Item #14; File #16-812**

**Use of Property on Juan Hernandez Drive for Voices College Bound Academy Charter  
School Site – Breach of Contract by Charter School**

To Mayor Steve Tate and the City Council of the City of Morgan Hill:

The Morgan Hill Unified School District ("District") writes to address Agenda Item #14, File #16-812, on the City Council's agenda for its December 14, 2016 special meeting.

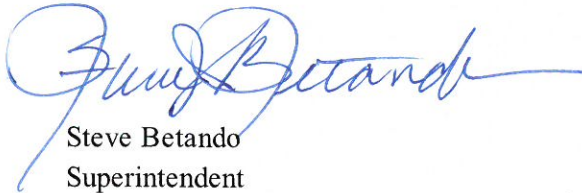
According to the Project Description appearing as part of the documentation supporting this agenda item, Voices College Bound Academy Charter School ("Charter School") is proposing to purchase a 3-acre portion of land located at Juan Hernandez Avenue, and owned by The Health Trust, to locate a public charter school that would eventually serve 505 students in Grades Transitional Kindergarten through Eight. A November 22, 2016 letter from Health Trust to the City's Interim Principal Planner Gina Paolini, states that "[w]e believe that an elementary school is similar in nature to these permitted uses, and therefore this project should be allowed on our property with a conditional use permit."

The District writes to advise the City of a written agreement ("Agreement") between the District and the Charter School governing the Charter School's pursuit of a school site in Morgan Hill, specifically, an alternative site ("Alternative Site") to the Charter School's current site located at the Advent Site. That Agreement contains a provision that "[i]n the event that the Charter School seeks a CUP, TUP, and/or building permit with respect to an Alternative Site, the District and Charter School shall meet and confer in good faith to address any concerns or objections held by the District with respect to the Charter School's application or proposed site, for the purpose of identifying solutions to address the District's concerns or objections, if any, and attempting to secure the District's support for [the Charter School's] application to obtain a CUP, TUP, or building permit."

The Charter School never advised the District, or fulfilled its legal duty to meet and confer with the District, over the District's concerns or objections to its proposed purchase of the portion of the Health Trust Land for use and operation of a public charter school enrolling over 500 students. Because the proposed site is adjacent to the District's Barrett Elementary School, the District believes that the potential traffic impact of the proposed project must be studied and considered. At the very least, the Charter School breached its legal obligation to meet and confer with the District regarding the District's concerns and objections to the proposed site before it caused a request to be made to the City to make a use determination, and before the matter was taken up by the City's Planning Commission at its November 22, 2016 meeting.

The District requests that the City Council table consideration of this matter for a period of 30-45 days to allow the District to pursue its contractual remedies against the Charter School enforcing its obligation to meet and confer regarding the District's concerns and objections to the proposed site.

Regards,



Steve Betando  
Superintendent

cc: Kirsten Perez, Assistant Superintendent, Business Services