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SAN DIEGO
COUNTY GRAND JURY

William A. Kowba
Superintendent
P – 619.725.5506
F – 619.291.7182
wkowba@sandi.net

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July 11, 2011

Honorable Kevin A. Enright
Presiding Judge of the Superior Court
220 W. Broadway
San Diego, CA 92101

RE: 2010/2011 Grand Jury Report: Library Charter School filed April 11, 2011

Dear Judge Enright:

The San Diego Unified School District (“District”) has reviewed the Facts, Findings and Recommendations in the 2010/2011 Grand Jury Report “Library Charter School” with respect to the findings and recommendations pertaining to matters under the control of the District. Pursuant to California Penal Code section 933(c), the following constitutes the response of the District and its Governing Board (“Board”) to the findings and recommendations pertaining to matters under the control of the District.

RESPONSE TO FINDINGS

Finding #01: The library charter school presents unique operational and safety challenges because of its location and mixed uses.

Response: The District disagrees wholly or partially with the finding. (Penal Code § 933.05(a)(2))

Explanation: The District agrees to the extent that, prior to the Grand Jury Report, the District has been aware that designation of a public middle or high school charter within two floors of the new downtown library building, as a joint use, has not occurred before.

However, issues relating to operations and safety are not unique. Thus, the District disagrees to the extent that (1) downtown San Diego is already the home to several public educational facilities in general and those that belong to the District; these schools have already addressed similar operational and safety issues without incident; (2) downtown San Diego provides rich opportunities to expand educational programs; (3) an office building with a mixed use for library and school purposes are compatible; and (4) the nearby public transportation and security measures of the building address safety issues.

Below is a listing of public K-12 schools located in downtown in the 92101 zip code, including two charter schools authorized by the District:

Child Development Center/Elementary/Middle School

City as School – 635 West “A” Street

KIPP Adelante Preparatory Academy Charter School – 1475 6th Avenue, 2nd floor

Monarch School – 808 West Cedar Street

Salomon Child Development Center - 1789 State Street

Washington Elementary School – 1789 State Street

High School

Garfield High School – 1255 16th Street
San Diego Early/Middle College - 1425 Russ Boulevard Suite T-112D
San Diego High School – 1405 Park Boulevard
King-Chavez Community High Charter School – 201 A Street

Given that San Diego Unified is the eighth largest school district in the nation and the second largest in the state, it is not unusual for a large urban K-12 school district to house a charter school in the downtown area. Children are obviously not precluded from living, or attending school, downtown and deserve to have quality educational opportunities.

In fact, the establishment of a new downtown charter school is consistent with the goals of the Downtown Educational Task Force, a group established in February 2007 whose mission is “to identify, analyze, expand, improve, and promote educational opportunities in the downtown region for all citizens.”¹ One of the goals of the Downtown Educational Task Force includes, “Expand pre-K to college level educational program offerings to better serve San Diego’s families who will live and work in downtown neighborhoods.”²

Because the charter school will be housed in a library building, the location provides a unique opportunity to further the educational purpose of teaching and learning as well as partnerships with downtown businesses and organizations. The Downtown Community Plan adopted in March 2006 by the Downtown Educational Task Force (attached as Exhibit “A” and incorporated by reference) states, in relevant part the following (emphasis added):

“Schools and universities located in the milieu of commerce, government, and culture provides opportunities for mutually beneficial relationships, involving field training for students and the infusion of new ideas and approaches for the downtown community.”³

“Given the diversity of downtown activity, the interests of dwellers, and land constraints, smaller public schools with special topical focuses may be more desirable than mainstream public schools. Downtown institutions could partner with charter schools to enrich curricula.”⁴

Furthermore, schools like the downtown charter school have already been “in the works” under the Downtown Community Plan adopted in March 2006 with the following policies (emphasis added):

8.1-P-3: Work proactively with the San Diego Unified School District and the various private educational institutes to meet the needs of downtown’s growing population and to provide quality educational opportunities to the urban population.

¹ http://www.ccdc.com/images/stories/downloads/programs/education-task_force/Edu_Taskforce_Mission_Statement.pdf. It is a joint effort among City Centre Development Corporation, the Downtown San Diego Partnership, the Little Italy Association, the Little Italy Residents Association, the San Diego Unified School District, Washington Elementary School, California Charter School Association, San Diego Community College and a number of downtown parents and other stakeholders.

² <http://www.ccdc.com/programs/education-task-force/overview.html>

³ http://www.ccdc.com/images/stories/downloads/planning/plans/SDCP_08_Public_Facilities_Amenities.pdf

⁴ *Ibid.*

8.1-P-4: Pursue charter school with special curricula in the areas of art, music, design, leadership, science, and the performing arts and help to identify downtown organizations and institutions that could serve as partners or sponsors.

Thus, the charter school will be part of an urban education in the 21st century in which school buildings are located downtown to take advantage of the downtown community. Thus, school use is not only compatible with the building's use as a library, but complimentary as well.

There is nothing inherently unique about a school that is located downtown and hence operational and safety issues confronting a downtown charter school are no different for students who attend District schools (and non-District schools) in the 92101 zip code noted above. Rather, the students who will be attending the downtown charter school will be in a secure environment because they will be housed in a facility with controlled access via a separate entrance from the Downtown Library. The charter school will also have two dedicated elevators that travel directly to the sixth and seventh floors, which are isolated from the rest of the library building. This situation is in contrast to other schools in which students are free to roam a campus proper.

In addition, the separate lobby and entrances will limit the interaction between charter school students and other users of the library building. This scenario is in contrast to students at Garfield High School who are in close proximity to adults who attend neighboring San Diego City College or students at Preuss Charter School which is located on the University of California, San Diego campus.

Another attractive feature of the downtown charter school is its convenient location to public transit, thereby giving students the option to travel to and from school via bus and trolley. Hence, students attending the downtown charter school will not be isolated, but surrounded by people living and working downtown who use public transportation.

In summary, while placing a charter school within a library building has not been done before in San Diego, it is not unique given that many District and (non-District) K-12 schools operate downtown in the 92101 zip code; those downtown schools face the same issues regarding operations and safety; and use of a library office building mixed with school use are compatible, as indicated by the Downtown Educational Task Force.

Finding #02: In the rush to fund the construction of the new San Diego library, the City failed to give proper weight and consideration to the challenges caused by the joint use of the facility.

Response: The District disagrees wholly or partially with the finding. (Penal Code § 933.05(a)(2))

Explanation: The District disagrees to the extent that the District does not (and cannot) know, with full certainty, the weight and consideration given by the City to joint use of the facility since only the City may provide a proper response.

Notwithstanding the above, the District also disagrees given that the City concluded that it was not necessary to perform a new evaluation under California Environmental Quality Act (CEQA) because "no new impacts would result from the incorporation of a school use on two floors of the proposed Library, where offices uses had been contemplated under the original MND

[Mitigated Negative Declaration] for the project.”⁵ (See October 9, 2009 and October 26, 2009 Memoranda from City of San Diego regarding “San Diego New Main Library, Provision of CEQA 15162 Evaluation” attached as Exhibits “B1” & “B2” and incorporated by reference)

Specifically, the City found that the change from office use to school use of the library building would not generate new parking impacts but in fact, would be less than the previously analyzed demand for office use parking. The City based its analysis on Table 142-05F of the Municipal Code for educational facilities K-9 that requires 2.0 parking spaces for classroom based on the assumption that most students would use modes of transportation other than automobiles or will be dropped off. Using this formula, demand for 26 parking spaces will be generated by the 450 student school use (based on 35 students per classroom). The current proposal provides 30 spaces for school use and would not generate any unmet parking demand.

The City also found that the traffic of a public middle or high school would generate less vehicle trips per 1000 square feet than the planned office use. (See Exhibits “B1” and “B2”) Thus, from an environmental perspective, school use of the building does not result in substantial changes; all project issues and mitigation for significant impacts have been addressed in the original MND; and no subsequent MND was required.

The District also disagrees to the extent that the Grand Jury concludes that a public charter is the sole permitted use of the two floors of the library building. While the New Central Library Lease Agreement between the City of San Diego and the District dated on or about April 19, 2010 (the “Lease”) specifically provides that the premises may be used for a public middle or high school charter, it also provides that the space may be used for other purposes (with City’s consent), including but not limited to private school, administrative or general business offices, so long as they are compatible and consistent with the library building.

RESPONSE TO RECOMMENDATIONS

Recommendation 11-08: Conduct a new needs assessment to ensure that the library charter serves the actual or potential downtown population.

Response: This recommendation has already been implemented. (Penal Code § 933.05(b)(1))

Explanation: Please bear in mind that a charter school, by definition, is not limited to serving a particular geographic population because it must admit students residing anywhere in the State of California. The requirement is for charter schools to provide a preference for students from the authorizing district, but there are no boundaries per se. While the District cannot limit enrollment of the downtown charter school to “downtown,” the District performed some research, prior to the Grand Jury’s report, to determine whether a downtown charter school would be able to “attract” students living in the San Diego High School boundary, which includes downtown. The District determined that the capacity of San Diego High School, the local district high school, at 3,000 students is much less than the total number of high school students at 5,000 living in its boundary. Thus, any additional capacity in the area, such as a

⁵ Section 15162 of CEQA Guidelines states that when an Environmental Impact Report has been certified or a Negative Declaration adopted for a project, no subsequent or supplemental EIR shall be prepared for that project unless one or more of the following events occur: 1. Substantial changes are proposed to the project; 2. Substantial changes occur with respect to circumstances under which the project is being undertaken; 3. New Information, which was not known or could not have been known at the time the EIR or ND was certified as complete, becomes available.

downtown charter school, would be able to serve the “surplus” high school students of the San Diego boundary, which extends to more than just downtown.

Specifically, the District’s Instructional Facilities Planning Department produced a report showing all the 9th-12th graders who live in the San Diego High School boundary (which includes downtown) according to the school they actually attended. (See Grades 9-12 Students in San Diego HS Boundary for Fall 2010 attached as Exhibit “C” and incorporated by reference) Of the District’s 5,211 high school residents in Fall 2010 in the San Diego High School boundary, only 2,184 of them chose to attend one of the six small high schools at SDHS.⁶

Therefore, the remaining 3,027 residents are leaving their neighborhood school to attend other high schools. Based on this information, the District reasonably concluded sufficient number of students live in the San Diego High School boundary from which the downtown charter could draw upon for enrollment. Given that the capacity of the San Diego High School complex is under 3,000, this means we have more students in the boundary than the school can accommodate.

In addition to the above, the District also conducted various surveys and field polls to determine parents’ interest in sending their children to a new school in the downtown area. In an April 15, 2009 survey, when asked the likelihood of sending their child next year to a brand new elementary/middle/high school in the downtown area built with the latest security and safety features, 76% of parents polled indicated they would probably or definitely send their child to that school. (See April 15, 2009 Competitive Edge Research & Communication survey results attached as Exhibit “D” and incorporated by reference)

Before the Grand Jury issued its report, the District had been developing a Request for Proposal, (“RFP”) selection criteria, and scoring rubric for which charters could apply for the facility space. (See District’s RFP for Designation of Facility for Charter School at the New San Diego Main Library’s Sixth and Seventh Floors and Scoring Rubric attached as Exhibits “E1” & “E2” and incorporated by reference) After the Grand Jury issued its report, District staff incorporated its comments and concerns, along with further review and analysis of the needs to ensure that the new charter serves the actual or potential downtown population.

At May 3, 2011 and May 24, 2011 public meetings, the District Board of Education provided input to staff on the criteria and process for the selection of a charter school. The end product is an RFP for the designation of facility for a charter school issued on or about May 25, 2011, which includes but is not limited to the following factors: alignment of the charter’s academic program to the library; the strength of the internship and partnership opportunities within the City of San Diego; and geographical preference via an outreach plan for students residing in the 92101 zip code and directly adjacent zip codes. Thus, the District is addressing whether the charter serves the actual or potential downtown population.

As discussed above and in Exhibit “A”, a downtown charter is consistent with the goals and policies of the Downtown Community Plan adopted in March 2006 by the Downtown Educational Task Force in serving the downtown population.

Recommendation 11-09: Select a charter group before additional planning for the library charter school proceeds.

⁶ This 2,184 attendance number is calculated from the student population of the six small schools at San Diego High School as follows: 424 students from SDHS Science & Tech; 416 students from SDHS Media, Visual, & Arts; 407 students from SDHS LEADS; 397 students from SDHS Business; 274 students from SDHS Communication; 266 students from SDHS International Studies.

Response: This recommendation had not yet been implemented but will be implemented in the next few months on or about September 2011. (Penal Code § 933.05(b)(2))

Explanation: The tentative timeline, subject to change without notice, is as follows:

RFP Release:	May 25, 2011
Proposals Due (3:00 p.m.):	June 27, 2011
Interviews at District's discretion:	July 2011
Board designation of a charter school at Library:	September 2011

The selected charter group will have input into the design of the two floors of the facility, whose total area is approximately 71,800 square feet. The District, with its architect, will consult with the charter group before the library charter proceeds. (The District is responsible for tenant improvements in support of a public charter school program.) The target date for occupancy of the charter school is September 2013. As the date of this writing, District staff is evaluating proposals submitted by charter groups.

Recommendation 11-10: Require the approved charter group to provide a written plan for ensuring the safety of up to 400 students.

Response: This recommendation has already been implemented. (Penal Code § 933.05(b)(1))

Explanation: The District's RFP for the designation of facility for a charter school issued on or about May 25, 2011 requires the charter school to provide a written comprehensive safety and emergency plan that addresses how students will be supervised and protected from unapproved visitors and how the Library site will be protected from vandalism.

In addition, Education Code section 47605(b)(5)(F) requires that a charter petition contain a reasonably comprehensive description of the procedures that the school will follow to ensure the health and safety of pupils and staff.

Recommendation 11-11: Plan, budget, and take action to address the Grand Jury's concerns identified in the Discussion section.

Response: This recommendation has already been implemented. (Penal Code § 933.05(b)(1))

Explanation: The District's response is threefold. First, the District has addressed these concerns in the RFP issued on or about May 25, 2011 in outlining the factors for consideration with respect to the governance, finance, and operations of the selected charter and to the extent that the District has oversight responsibility of the charter school. (See Exhibits "E1" & "E2") Second, the designated charter school will be responsible for operating a public school in accordance with applicable law, rules, and regulations. Third, under Education Code sections 47607 and 47604.32, the District has oversight responsibility of the charter school, which includes but is not limited to the authority to deny a charter petition or revoke a charter.

With respect to the security challenges for the sixth and seventh floors of the facility, as stated above in the District's Response/Explanation to Grand Jury Finding #1, the charter school will have a separate lobby from the Downtown Library and two dedicated elevators that go directly to the sixth and seventh floors. One elevator will also be accessible from the underground

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parking structure. This will help ensure that entrances and elevators are secured to so that only students, faculty, staff, and approved visitors are allowed to enter the school. In addition, the charter is to provide a written comprehensive safety and emergency plan that addresses how students will be supervised and protected from unapproved visitors and how the Library site will be protected from vandalism.

One of the factors for consideration in the selection of a charter school in the RFP is a written proposal that includes a comprehensive parking plan. The facility currently has six parking spaces reserved solely for the charter school, with up to 30 additional spaces at an estimated monthly fee of \$170. As mentioned previously above in the District's Response/Explanation to Grand Jury Finding #2, the City found that the change from office use to school use of the library building would result in less demand for parking and less traffic. (See Exhibits "B1" & "B2")

With respect to food services, a written proposal that includes a comprehensive plan for food services, including those students who qualify for free and reduced lunch is a factor for consideration in the selection of a charter school, who will decide whether students are permitted to go off-campus. Food services is likely a non-issue given that District Food Services Department supports all but four District charter schools by providing cold or hot meals. Specifically, of the District's 40 charter schools, only Magnolia Science Academy, Explorer Elementary, Learning Choice Academy, and Urban Discovery Academy did not use the District's Food Services Department for the 2010-11 school year. Thus, the new downtown charter school may elect to contract with the District's Food Services.

In summary, the District and the selected charter school may draw from the experiences of the existing educational facilities located downtown, as identified above.

Conclusion

On behalf of the Superintendent and Board of Education of the San Diego Unified School District, I thank you for your recommendations on ways to improve efficiency within a large urban school district to achieve savings for the taxpayers.

Sincerely,



William A. Kowba
Superintendent

Encl: Exhibits A-E

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