

CAPISTRANO UNIFIED SCHOOL DISTRICT

**REQUEST FOR PROPOSALS FOR THE
LEASE OF SCHOOL DISTRICT
SURPLUS REAL PROPERTY**

**Real property located at
26126 Victoria Blvd., Dana Point, California 92624**

known as the South Bus Yard Property

Dated: May 29, 2018

I. INTRODUCTION AND BACKGROUND

The Capistrano Unified School District is seeking proposals from qualified parties (“Respondents”) to lease approximately 5.51 gross acres of land located at 26126 Victoria Blvd, Dana Point, California 92624, more commonly known as the South Bus Yard property (“Property”), as more particularly identified in the legal description and map depiction attached hereto as Exhibit “A.”

The District 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 pursuing a long-term ground lease of the Property. The Education Code requires the District to follow a specific procedure to 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 leasing the Property pursuant to the conditions set forth in the District’s Request for Proposal (“RFP”). The District will assess all proposals and determine the best options for the District, as described below.

The District anticipates that following the less formal RFP process will allow the District to negotiate a ground lease which better accommodates the needs of both the District and the potential lessors.

Respondents are encouraged to submit a ground lease proposal in accordance with the requirements set forth herein. The District will review all submitted proposals in accordance with 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 lease will be documented in a formal ground lease agreement to be entered into by the District and the successful Respondent.

All proposals must be received by **12:00 pm PDT on June 19, 2018** (the “Proposal Deadline”).

II. THE PROPERTY

Site Description

- The subject property is located in the incorporated City of Dana Point. The property address is 26126 Victoria Boulevard, Dana Point. See attached Exhibits “B” and “C”.
- Exposure and Access from two street frontages – Victoria Boulevard and Sepulveda Avenue
- The area of the subject property is 5.51 acres or 240,016 square feet.
- The land is generally level and at street grade.
- All utilities are available and installed in adjacent public street rights-of-way.
- Victoria Boulevard and Sepulveda Avenue are both two-lane residential public streets with curbs, gutters, sidewalks and streetlights.
- Drainage is surface to encompassing streets with subterranean inlets.
- There is no Alquist-Priolo fault zone.

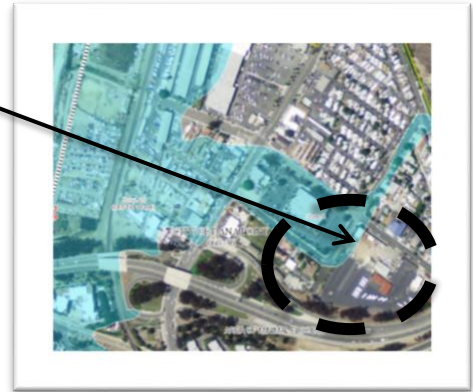
Legal Description

See Attached Exhibit “A”

Assessor Parcel Number

668-361-01

Subject Property



Flood

The Zoning Map also designates a portion of the property within the Recreational Land Use designation as within a Floodplain Overlay area (FP-2). The City of Dana Point Zoning Code Section 9.31.010 designates three Floodplain Overlay (FP) districts intended to protect the public health, safety, and general welfare from flood hazards. Flood Zone A is an area inundated by 100-year flooding and an area that the City has determined to be a special flood hazard area. The subject property is shown on FEMA map panel 060736 – 06059C0508J, dated December 3, 2009.

On-Site Structures

Six (6) permanent structures and three (3) portable structures are currently located on the property and are used for storage of surplus school furniture, equipment and school maintenance-related activities. Outdoor areas are primarily utilized for storage of surplus school buses, school service vehicles and landscape maintenance equipment and bulk landscape material storage. A fueling area with two (2) underground storage tanks (diesel and gasoline) (the “Tanks”) is located near the northeast corner of the property. The District will take all actions necessary and appropriate to remove the Tanks and remediate the Property with respect to the Tanks in accordance with applicable law before any proposed development of the Property. Other existing improvements include security fencing, utility poles and street lighting, mature trees and landscaping around the perimeter of the property.

Utilities

All typical urban utilities appear to be available on-site. The status and condition of the existing utilities will require confirmation with preparation of future development/utility plans by the Lessee.

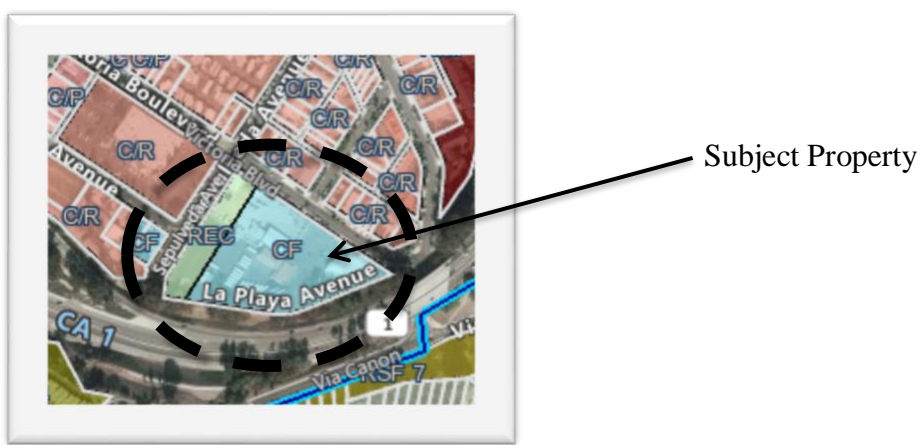
Environmental Constraints

A Phase I Environmental Site Assessment was prepared (PlaceWorks, August 2015) to assist CUSD in evaluating any identified environmental risks on the site resulting from existing or historical uses. Based on the assessment conducted, the locations of the CUSD property requiring future environmental assessments include areas where vehicle maintenance activities historically occurred, the area containing underground storage tanks and any locations where storage of maintenance equipment and/or chemicals has occurred.

Jurisdictional

The City of Dana Point General Plan Land Use Element designates a 4.4-acre portion of the site as “CF” Community Facility and a 1.1-acre portion “R” Recreation (first 100-feet adjacent to Sepulveda Avenue) as does the City Zoning Map. The Zoning Map also designates a portion of the property within the Recreational Land Use designation as within a Floodplain Overlay area (FP-2). The property is located within the Coastal Zone boundary, making any land use decision discretionary, subject to approval of the City Planning Commission in accordance with the Coastal Development Permit requirements of Zoning Code Section 9.69.

Under the existing Community Facilities District regulations (City Zoning Code Chapter 9.19) a wide range of public, quasi-public and private community uses are allowed. Community uses include civic buildings, schools, churches, hospitals, day care centers, cultural, recreational facilities, municipal infrastructure and utility facilities. Among the other permitted land uses in the CF Zone includes Multiple-Family Dwellings at a density of twenty-two (22) units per acre (further limited to a maximum building height of 3-stories) to permit high-density residential projects in compliance with the adopted City Housing Element.



SOURCE: City of Dana Point Zoning Map

The applicable zoning regulations can be accessed digitally at:

Community Facilities Zone:

Allowed uses: http://qcode.us/codes/danapoint/view.php?topic=9-9_19-9_19_020

Site Development Standards: http://qcode.us/codes/danapoint/view.php?topic=9-9_19-9_19_030

Recreation Zone:

Allowed uses: http://qcode.us/codes/danapoint/view.php?topic=9-9_21-9_21_020

Site Development Standards: http://qcode.us/codes/danapoint/view.php?topic=9-9_21-9_21_030

III. QUALIFICATIONS/ PROPOSAL REQUIREMENTS

The District invites qualified persons and/or private business firms to submit proposals in response to this RFP. Proposals shall comply with the requirements set forth herein. Respondents must provide the following basic information:

1. Letter of Intent – including identification of the entity proposing to lease the Property, a description of any proposed improvements, changes, or developments to be completed on the Property (the “Project”), including a description of the scale of the Project and projected annual ground rent. Summarize the critical elements of the expected Project timeline. Also summarize any other critical information related to the proposal.
2. Project Approach – to include a development plan and statistical summary, general development timetable showing the various planning and entitlement steps, construction duration, estimated starting period and any phasing contemplated.

3. References and Experience – to include background information that reflects experience similar to the Project as presented here.
4. Financial Proposal and Projections – including a description of proposed lease terms including suggested Minimum and Percentage Rents for the entire Site.
5. Statement of Financial Qualifications -- including 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 undertaking of the Project and operating the facilities in full compliance with the executed lease agreement 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.

6. All responses submitted must be accompanied by a cashier's check for \$35,000 payable to Capistrano Unified School District. All checks, except that received from the successful Respondent, shall be returned upon the selection of the successful Respondent. This amount is required to cover the District's costs to negotiate the Lease Agreement.

IV. PROPOSED GROUND LEASE GUIDELINES

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 final ground lease agreement. Respondents will be required to enter into a ground lease 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 ground lease may be negotiated to determine if the Parties can reach a mutually acceptable ground 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 ground lease.
- Respondent must identify the total length of the ground lease term. The District is looking to lease the Property for a lease term up to ninety-nine (99) years. However, the District is willing to consider a longer or shorter 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 must identify the proposed Base Rent per year along with increases to the Base Rent during the term of the lease, based on the total length term sought by the Respondent. For example, Respondent may propose a Base Rent for the first ten (10) years of the lease term and propose Base Rent Adjustments to be made every five (5) years of the balance of the lease term.
- 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 such due diligence period should not be longer than ninety (90) days 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 ground 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 ground 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 may request that the Parties enter into a confidentiality agreement regarding the negotiations for the Lease Agreement. However, Respondent recognizes that the District, as a public agency, is bound by certain laws, including the Public Records Act, to make certain documents available to the public upon request.
- 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.
- 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 and that it will pay all costs associated with seeking the potential governmental approvals.
- 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.
- During the Due Diligence Period, 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, including improvements, alterations and additions to the Property buildings after the Respondent executes the ground lease agreement (“Property Adjustments”). Respondent must agree to include a provision within the ground 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 ground 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 ground 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 Respondent shall be free to enter into a leasehold mortgage of the Property; however, the District’s fee interest in the Property shall not be subordinated at any time during the Lease. Respondents must indicate if they intend to enter into a leasehold mortgage of the Property during the lease.
- The District shall be free to mortgage its interest in the Property via a fee mortgage. The Respondent must be willing to subordinate the Ground Lease to any fee mortgage sought by the District.
- The District will give high priority to proposals that place to responsibility to pay any property taxes related to the Property or its use on the Respondent.
- The District will not pay for any broker’s commission and/or finder’s fee incurred by the Respondent applicable to the lease of the Property.
- The District will give high priority to a creditworthy Respondent who submits a proposal that substantially meets the Agreement Guidelines provided herein.

V. 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 **12:00 pm on June 19, 2018**. Proposals must be submitted to the address set forth in Section VII below. Responders 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. 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.”

3. 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 lease for the Property.

4. Proposals may be mailed or delivered to the address listed at the end of this RFP. All proposals shall be sealed and clearly marked: “Capistrano USD South Bus Yard Property Lease 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.

5. Telephone or electronic submittals will not be accepted.

6. 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.

7. 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.

8. 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.

9. Upon selection of a Respondent, the District shall provide a ground lease agreement for negotiation by the Parties which will set forth the terms of the ground lease 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.

VI. 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 with the exception of where disclosure is required under 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 Capistrano 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.

VII. RECEIPT OF PROPOSALS; CONTACT INFORMATION

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

Clark D. Hampton
Deputy Superintendent, Business and Support Services
Capistrano Unified School District
33122 Valle Road
Capistrano Ca, 92624
Emailcdhampton@capousd.org

Any questions regarding the Property or the RFP process must be emailed to the District Contact pursuant to the requirement of Section IX below.

All RFP responses must also be addressed and delivered to the District Contact 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 Contract should be done in writing: Any oral statement made to or by the District Contact shall not be considered part of the RFP and shall in no event bind the District.

VIII. PROPERTY VISIT

The District will hold a non-mandatory walk-through inspection of the Property on June 4, 2018 at 1:30 p.m. Additional dates will be considered upon request.

Such walk-through inspection shall be a visual inspection only and shall consist solely of walking through the Property to visually review its conditions. Under no circumstances shall any interested party conduct any structural inspection or testing on the Property or take any action that will disturb the physical state of the Property during such walk-through.

In order to participate in a walk-through during the time designated above, any interested party must sign in with District staff, which will be stationed at the front of the Property site during the designated walk-through time. Nothing in this RFP shall be construed as guaranteeing any party the right to perform a walk-through or requiring the District to provide a walk-through to any party. Any party who is unable to participate in a walk-through for any reason shall not be granted any special consideration. However, participation in the walk-through is not a requirement to submit a Proposal to lease the Property.

IX. QUESTIONS

Any party who has questions about the Property may submit questions in writing to the District via email at cdhampton@capousd.org, the District Contact. The District shall respond to questions submitted on or before 4:00 p.m. on June 8, 2018 in writing via an addendum. Questions received after this date and time will not be answered. The District's addendum will be posted on the District's website 4:00 pm on or before June 13, 2018. 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.

X. CONDITIONS AND LIMITATIONS

This RFP does not represent an offer or commitment by Capistrano 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.

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 a Lease Agreement. 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 OF PROPERTY

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF DANA POINT, IN THE COUNTY OF ORANGE, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

ALL OF BLOCKS FOUR AND FIVE OF [TRACT NO. 735](#) , AS SHOWN ON A MAP RECORDED IN [BOOK 22, PAGES](#)

[21 TO 28, INCLUSIVE, MISCELLANEOUS MAPS](#), RECORDS OF ORANGE COUNTY, CALIFORNIA; TOGETHER WITH THE VACATED ALLEYS IN SAID BLOCKS FOUR AND FIVE, AS ABANDONED BY RESOLUTIONS OF THE BOARD OF SUPERVISORS OF ORANGE COUNTY, CALIFORNIA, CERTIFIED COPIES OF WHICH RESOLUTIONS WERE RECORDED SEPTEMBER 11, 1939 IN [BOOK 1009, PAGE 367 OF OFFICIAL RECORDS](#), AND MAY 19, 1953 IN [BOOK 2505, PAGE 505 OF OFFICIAL RECORDS](#) ; AND ALSO THAT PORTION OF AMERICAN AVENUE EXTENDING FROM THE SOUTHWESTERLY LINE OF VICTORIA BOULEVARD SOUTHWESTERLY TO THE NORTHERLY LINE OF LA PLAYA AVENUE, AS SHOWN ON THE MAP OF SAID [TRACT NO. 735](#) , AS ABANDONED BY RESOLUTION OF THE BOARD OF SUPERVISORS OF ORANGE COUNTY,

CALIFORNIA, A CERTIFIED COPY OF WHICH RESOLUTION WAS RECORDED SEPTEMBER 11, 1939 IN [BOOK 1009, PAGE 367 OF OFFICIAL RECORDS](#) AND ALSO TOGETHER WITH THAT PORTION OF LA PLAYA AVENUE, 80.00 FEET IN WIDTH, AS SHOWN ON SAID MAP OF [TRACT NO. 735](#) , AS ABANDONED BY RESOLUTION NO. 71-454 OF THE BOARD OF SUPERVISORS OF ORANGE COUNTY, CALIFORNIA, A CERTIFIED COPY OF WHICH WAS RECORDED MAY 3, 1971 IN [BOOK 9627, PAGE 691 OF SAID OFFICIAL RECORDS](#), SAID PORTION BEING BOUNDED NORTHEASTERLY BY THE SOUTHEASTERLY PROLONGATION

OF THE SOUTHWESTERLY LINE OF VICTORIA BOULEVARD, 80.00 FEET IN WIDTH, AS SHOWN ON SAID MAP AND BOUNDED WESTERLY BY A LINE WHICH IS AT RIGHT ANGLES TO THE SOUTHERLY LINE OF BLOCK 4 OF [TRACT NO. 735](#) AND WHICH PASSES THROUGH THE WESTERLY CORNER OF SAID BLOCK.

EXCEPTING FROM LOTS FOUR, SEVEN, EIGHT AND NINE IN SAID BLOCK FOUR ANY AND ALL COAL, OIL AND OTHER MINERALS WITHIN OR UNDERLYING SAID LAND AND THE RIGHTS RELATING TO SAID SUBSTANCES, AS EXCEPTED IN THE DEED FROM CONSOLIDATED PACIFIC INVESTMENT CO., RECORDED DECEMBER 6, 1945 IN [BOOK 1364, PAGE 445 OF OFFICIAL RECORDS](#) , THE RIGHTS SO EXCEPTED PERTAINING TO THE REMOVAL OF SUCH SUBSTANCES HAVING BEEN MODIFIED BY AN INSTRUMENT RECORDED MARCH 17, 1947 IN [BOOK 1482, PAGE 421 OF OFFICIAL RECORDS](#) , WHICH PROVIDES, AMONG OTHER THINGS, THAT CONSOLIDATED PACIFIC INVESTMENT CO. SHALL NOT HAVE THE RIGHT TO USE THE SURFACE OF SAID LAND.

EXHIBIT "B"

ALTA MAP DEPICTION OF PROPERTY

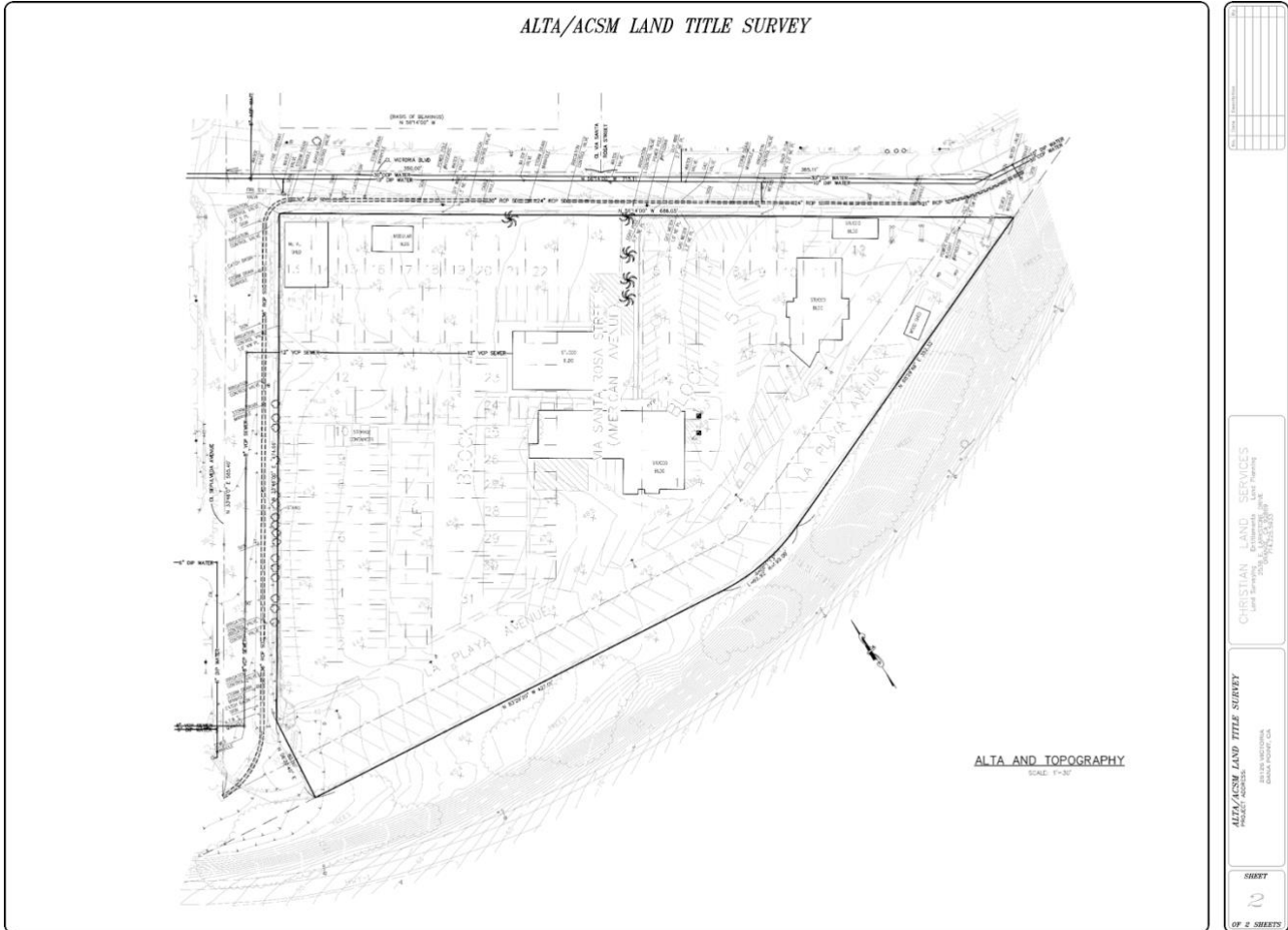


EXHIBIT "C"

AERIAL PHOTO OF PROPERTY

