

January 25, 2019

Via Electronic Mail to felix@tinkovlaw.com

Felix Tinkov
225 Broadway, Suite 1900
San Diego, California 92101

Re: California Public Records Act Request from Voice of San Diego

Dear Mr. Tinkov,

This letter provides a further response to your communication of 9 November 2018 in which you renewed the Public Records Act requests made on 20 September 2018 by reporter Ry Rivard of the Voice of San Diego to SDSU and various auxiliary organizations.

Specifically, you asked the University for the following:

- All contracts, agreements, payment records and similar documents between San Diego State University (and/or any division, affiliate or related organization) and all lobbyists, political consultants, public relations firms, contractors, architects and/or architecture firms including, but not limited to, Carrier Johnson + CULTURE, real estate consultants including, but not limited to, JMI Realty, stadium design consultants including, but not limited to, Populous and JMI Sports and any other individuals, companies or entities working and/or contracting with, in the interest of, or on behalf of the University with regard to the SDSU West project and/or ballot measure, in the period between January 1, 2017 and the present.

Our previous response, dated 12 December 2018, provided a complete response to this request, and we incorporate it here in its entirety.

You also asked the University for the following:

- All invoices from Carrier Johnson + Culture in the period between January 1, 2017 and the present.

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- All invoices from JMI Realty in the period between January 1, 2017 and the present.
- All invoices from JMI Sports in the period between January 1, 2017 and the present.
- All invoices from Populous in the period between January 1, 2017 and the present.
- All pro formas and spreadsheets (including all spreadsheet output) prepared and/or transmitted by JMI Realty and/or JMI Sports in the period between January 1, 2017 and the present.
- All contracts, agreements, payment records and similar documents between San Diego State University (and/or any division, affiliate or related organization) and all lobbyists, political consultants, public relations firms, contractors, architects and/or architecture firms including, but not limited to, Carrier Johnson + CULTURE, real estate consultants including, but not limited to, JMI Realty, stadium design consultants including, but not limited to, Populous and JMI Sports and any other individual, company or entity working and/or contracting with, in the interest of, or on behalf of the University with regard to the SDSU Mission Valley plan (as referenced at <http://advancement.sdsu.edu/missionValley/www/planOverview.html>), in the period between January 1, 2017 and the present.

We incorporate in full our response, dated 12 December 2018, regarding these requests. We continue to believe that the University is, and has been, in compliance with the Public Records Act.

Notwithstanding and without waiving the exemptions and privileges described in the 12 December 2018 response, and in the interest of providing “public access to vital information about the government’s conduct of its business” balanced against the public interest in avoiding disclosures that would jeopardize the University’s deliberative process or invade the attorney-client privilege or attorney work-product doctrine, particularly now that the project has moved into the campus master plan, CEQA and purchase negotiation phase, the University is providing the following supplemental response to your 9 November 2018 renewed request. Specifically, enclosed with this communication are (1) the scope of work attached to the contracts between the University’s retained legal counsel, Gatzke Dillon & Ballance LLP and the consulting experts; and (2) invoices submitted by the consulting experts to Gatzke Dillon during the time period of 1 January 2017 through October 2018, as follows:

- Carrier Johnson & Culture: Scope of work, invoices (redacted)
- Intesa: Scope of work, invoices (redacted)
- JMI Realty: Scope of work, invoices (redacted)
- JMI Sports: Scope of work, invoices
- Populous: Scope of work, invoices
- Public Policy Strategies: Scope of work, invoices

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Please note that the relationship with Public Policy Strategies ended when it became affiliated with the entity supporting the ballot measure that later became known as Measure G (also known as “SDSU West”).

As a reminder, each of these expert consultants was hired by the University’s retained counsel under the scope of its legal retention associated with master planning and CEQA work related to the potential acquisition of the Mission Valley site. As noted above, the documents we are providing have, where necessary, been redacted to avoid disclosure of privileged information (including information that would give insight into the University’s legal strategies and the University attorneys’ thoughts and mental impressions) and deliberative process. (Cal. Govt. Code § 6254(k); Cal. Evid. Code § 950, et seq.; Cal. Govt. Code §6255; *Times Mirror Co. v. Superior Court*, 53 Cal.3d 1325 (1991).)¹ They have also been redacted, as necessary, to avoid disclosure of private/confidential financial institution account information.²

By providing this response and the attached documents, the University does not waive the attorney-client privilege, its protections under the attorney work-product doctrine, the assertion of the deliberative process exemption, the exemption from disclosure under the balancing test, or any other basis on which it relies regarding exemption from disclosure.

We believe that these documents are sufficient to provide you the information you seek, while still protecting the University’s attorney-client privilege, its attorney work product, and the deliberative process necessary for protection of the public good. We further believe that this appropriately balances the public’s interest in disclosure against the very strong public interest served by not disclosing documents withheld under the exemptions identified in our prior correspondence and incorporated here. Apart from our obligations under the Public Records Act, we also remind you that the Board of Trustees of the California State University will hold public meetings related to the project approval, including the financing models, bond issuances and land plan. The University anticipates that substantial information will be disclosed through those processes and other public hearings required for the approval of the purchase and sale agreement.

The University believes that its responses, including as supplemented, sufficiently satisfy the public interest concerning the matters in your request. Should you disagree with this assessment, we invite you to share your reasons for our consideration. The Public Records Act

¹ Redactions on Carrier Johnson & Culture, Intesa, and Public Policy Strategies invoices.

² Redactions on JMI Realty invoices.

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requires that notification of denial of any request for records must include the names and positions of each person responsible for the denial (Govt. Code § 6253(d)). For purposes of that legal requirement, the person responsible for the denial is Dominoe Franco, Risk & Emergency Management Coordinator, Business & Financial Affairs, San Diego State University.

Kind regards,



Catherine Valerio Barrad
University Counsel

Enclosures