

CAPISTRANO UNIFIED SCHOOL DISTRICT  
San Juan Capistrano, California

**RESOLUTION NO. 1819-25**

**RESOLUTION OF THE BOARD OF TRUSTEES OF THE CAPISTRANO  
UNIFIED SCHOOL DISTRICT APPROVING AGREEMENTS TO LEASE  
DISTRICT SURPLUS REAL PROPERTY AND DIRECTING STAFF TO  
ASSESS POTENTIAL USES OF THE LEASE PROCEEDS**

**(SOUTH BUS YARD PROPERTY)**

*WHEREAS*, the Capistrano Unified School District (District) owns an approximately 5.51 acre property located at 26126 Victoria Blvd, Dana Point, CA 92624 (Property);

*WHEREAS*, the District's Board previously declared the Property surplus and authorized staff to pursue leasing the Property pursuant to the "surplus property sale procedure" set forth in Education Code section 17455, et seq. which allows school districts to lease property deemed surplus;

*WHEREAS*, pursuant to the District's Board authorization and direction, the District requested and received a waiver from the State Board of Education which authorized the District to pursue selling the Property through a "Request for Proposals" (RFP) process, as set forth through the waiver;

*WHEREAS*, at the direction of the District's Board, District circulated an RFP seeking proposals from parties interested in leasing the Property;

*WHEREAS*, through the RFP process, the District staff identified Toll Brothers, Inc. (Toll) as the entity that offered the most beneficial terms to the District for the lease the Property;

*WHEREAS*, the District negotiated the following agreements with Toll to effectuate the lease of the Property: 1) a "Option to Lease Real Property" agreement which grants Toll a time period to review the Property to determine if the Property will meet Toll's needs in exchange for certain monetary deposits to be delivered to the District, attached hereto as Exhibit "A" (the "Option Agreement") and 2) a "Ground Lease" Agreement which establishes the terms and conditions by which Toll will lease the Property from the District in exchange for monthly rental payments, attached hereto as Exhibit "B" (the Lease Agreement);

*WHEREAS*, Education Code section 17455 et seq. does not limit the District's use of proceeds from the lease of the Property (the Lease Proceeds) but suggests that Lease Proceeds may be used for capital outlay or for costs of maintenance of school district property as set forth in Education Code section 17462;

*WHEREAS*, Education Code section 41003 authorizes the District Board to designate an account maintained by the District which will receive the proceeds from the lease of real property by stating as follows: “[t]he governing board of a school district may, by resolution, specify the particular fund or funds maintained for the district into which shall be deposited moneys received for the rental or lease of real property;” and

*WHEREAS*, District staff can conduct a thorough review of the District properties and school facilities located within the District, and specifically within the City of Dana Point, through its master planning process to determine how best to designate and spend the Lease proceeds and make a formal recommendation to the Board based on the requirements of the Education Code.

*NOW, THEREFORE, THE BOARD OF TRUSTEES OF THE CAPISTRANO UNIFIED SCHOOL DISTRICT DOES HEREBY FIND, RESOLVE, DETERMINE, AND ORDER AS FOLLOWS:*

Section 1. All of the recitals herein contained are true and correct.

Section 2. The Option Agreement and the Lease Agreement with Toll are hereby deemed the most beneficial proposal received by the District and are hereby approved subject to any minor revisions agreed to by District’s legal counsel and the District’s Superintendent or a designee.

Section 3. Authority is hereby delegated to the Superintendent, or a designee, to execute the final Option Agreement after thirty (30) days from approval of this Resolution and deliver any and all documents which are necessary or advisable in order to commence the lease option period as established by the terms of the Option Agreement.

Section 4. If Toll exercises its option to lease the Property pursuant to the Option Agreement, authority is hereby delegated to the Superintendent, or a designee, to execute the Lease Agreement and deliver any and all documents which are necessary or advisable in order to commence the ground lease as established by the terms of the Lease Agreement.

Section 5. District staff will review and assess the specific capital outlay, maintenance and other facility related needs of school sites located in the City of Dana Point. The District’s School Facilities Assessment and projects identified through site stakeholder engagement for schools located in Dana Point shall have first priority for projects funded by lease proceeds.

Section 6. Proceeds shall first be used and prioritized exclusively to address any capital outlay and facilities needs identified in Section 5 above.

Section 7. The Board directs staff to establish a separate fund to receive proceeds collected from the lease of the property.

Section 8. Proceeds from lease of property shall only be used for capital facility needs.

Section 9. The Superintendent or a designee is hereby authorized and directed, for and in the name of and on behalf of the District, to take any further action necessary to effectuate this Resolution.

Section 10. This Resolution shall take effect upon adoption.

ADOPTED, SIGNED AND APPROVED this 12th day of December, 2018.

AYES	(4)
NOES	(0)
ABSTAIN	(0)
ABSENT	(1)

I, Kirsten M. Vital, Secretary of the Capistrano Unified School District Board of Trustees, hereby certify that the above and foregoing Resolution was duly and regularly adopted by the said Board at the meeting on the 12<sup>th</sup> day of December, 2018, by a roll call vote.

  
Clerk of the Board of Trustees


  
Kirsten M. Vital  
Superintendent  
Secretary of the Board of Trustees

Exhibit A

Attach copy of Option Agreement

Exhibit B

Attach copy of Lease Agreement