



Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL **FROM:** Richard Doyle
City Attorney

SUBJECT: HNVF Funding of Sacred Heart Nativity Schools **DATE:** June 17, 2009

REASON FOR SUPPLEMENTAL

After further review of the proposals submitted by Sacred Heart Nativity Schools of San Jose for Our Lady of Grace Middle School for Girls in the amount of \$75,000, and for Sacred Heart Middle School for Boys in the amount of \$75,000, it is necessary to conclude that the grant applications as submitted prevent the City from awarding funds. This is because the California Constitution provides that public funds cannot subsidize a private schools curricula, even if the funds are directed to nonreligious programs. The two cases that are germane to the issue are California Teachers Association v. Riles 29 Cal.3d 794 (1981), and California Statewide Communities Development Authority v. All Persons Interested In the Matter of the Validity of a Purchase Agreement 40 Cal.4th 788 (2007). Staff is currently exploring with the agency the possibility of restructuring its programs to be eligible for HNVF funding and will return to the Healthy Neighborhoods Leadership Committee and the City Council in August, 2009 with a new funding proposal.

RICHARD DOYLE
City Attorney

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Senior Deputy City Attorney

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