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May 30, 2019

Via E-mail and U.S. Mail

Don Freeman
City Attorney
City of Seaside
440 Harcourt Avenue
Seaside, CA 93955
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Re: Monterey Family Justice Center

Dear Don:

I write again on behalf of LandWatch Monterey County (LandWatch) about the City Council's May 16, 2019 resolution regarding the Monterey Family Justice Center ("MFJC Resolution").

In that Resolution, the City of Seaside made three commitments to the Family Justice Center project, without conducting review under the California Environmental Quality Act ("CEQA") and without reserving its rights as a responsible agency to modify, impose alternatives to, or deny the project:

- ". . . the City of Seaside, by its best efforts and good faith, *commits* to support, promote and creatively participate in the development of a Family Justice Center in the vicinity of General Jim Moore Boulevard and Broadway Avenue . . ."

- ". . . upon appropriation of funds by the State of California to construct a Family Justice Center within a civic campus in the vicinity of General Jim Moore Boulevard and Broadway Avenue by June 30, 2023, the City of Seaside *shall convey* property necessary for construction of the Family Justice Center to the Judicial Council of California for not more than $1 . . ."

- ". . . the City of Seaside *shall reserve* five to ten acres of land for a Family Justice Center to be sited within a civic campus, with shared public infrastructure . . ."

As I indicated in my May 15, 2019 letter and as we discussed on May 22, 2019, LandWatch believes that the adoption of this resolution violated CEQA. In our call, I explained again the basis of LandWatch's position and offered to provide you with additional case authority. You agreed to raise our concerns with the Council at its June 6, 2019 meeting.

LandWatch asks that the City Council reconsider this matter and rescind its MFJC Resolution. In adopting the Resolution, the City has committed itself to the Family Justice Center project without retaining its own discretion under CEQA to modify, deny, or adopt an alternative to the project. As the authority below demonstrates, this violates CEQA.

1. The City has prematurely approved a project without CEQA review under *Save Tara.*

In *Save Tara v. City of West Hollywood* (2008) 45 Cal.4th 116, the California Supreme Court held that the city's commitment to convey property for proposed senior center required CEQA review. *Save Tara* upholds the "general principle that before conducting CEQA review, agencies must not 'take any action' that significantly furthers a project 'in a manner that forecloses alternatives or mitigation measures that would ordinarily be part of CEQA review of that public project.' [citations]." (*Id*. at 138.)

Save Tara holds that in applying this principle "courts should look not only to the terms of the agreement but to the surrounding circumstances to determine whether, as a practical matter, the agency has committed itself to the project as a whole or to any particular features, so as to effectively preclude any alternatives or mitigation measures that CEQA would otherwise require to be considered, including the alternative of not going forward with the project." (*Id*. at 138-139.) The existence of a CEQA provision in an agreement is "relevant but not determinative" in the Court's determination whether an agency has violated CEQA by premature approval.

In *Save Tara* the Court found that the agreement at issue, taken together with the surrounding circumstances, constituted approval. (*Id*. at 142.) First, the agreement declared its purpose was to develop the property for the developer's project, and the city stated that it was committed to the project. Second, the city agreed to convey the property for the project. Third, the city committed to subsidize the project by conveying the property at a negligible cost and by making a loan commitment to the developer. Fourth, the CEQA compliance condition contained no provision permitting the City to disapprove the project.

Because these circumstances obtain here, the MFJC Resolution and the surrounding circumstances constitute a premature project approval under *Save Tara*.

First, as in *Save Tara*, the MFJC Resolution's declared purpose is development of the Family Justice Center. Indeed, the MFJC Resolution expressly declares the City's commitment to support the Family Justice Center at the General Jim Moore Boulevard and Broadway Avenue location:

> . . . the City of Seaside, by its best efforts and good faith, *commits* to support, promote and creatively participate in the development of a Family Justice Center in the vicinity of General Jim Moore Boulevard and Broadway Avenue . . .

(MFJC Resolution, italics added.)

Second, as in *Save Tara*, the City has committed to convey property to the developer. The MFJC Resolution is a unilateral agreement to convey property to the Judicial Council of California if a certain condition occurs. That condition is outside the City's control: if the State appropriates funding for the Family Justice Center, the City must convey the property. The language of the Resolution unequivocally commits the City to convey the necessary property:

> . . . upon appropriation of funds by the State of California to construct a Family Justice Center within a civic campus in the vicinity of General Jim Moore Boulevard and Broadway Avenue by June 30, 2023, the City of Seaside *shall convey* property necessary for construction of the Family Justice Center to the Judicial Council of California for not more than $1 . . .

(MFJC Resolution, italics added.) This language is not a mere expression of interest in a future negotiation: it is a commitment to sell needed property at a specific location for a specific amount. The MJFC Resolution also commits the City to reserve the needed property for the Family Justice Center and to share its public infrastructure with a civic campus:

> . . . the City of Seaside *shall reserve* five to ten acres of land for a Family Justice Center to be sited within a civic campus, with shared public infrastructure . . .

(MFJC Resolution, italics added.) To honor this commitment, the City could not otherwise commit the needed property before the Resolution's commitments expire in 2023.

Third, as in *Save Tara*, the City has agreed to subsidize the project by conveying the needed property for not more than one dollar. In addition, the City has already subsidized the project by commissioning a feasibility study, which the City intends to provide to the Judicial Council to encourage it to pursue the project at this site. The feasibility study, prepared by a national planning firm, programs 147,500 square feet of civic uses and 240 parking spaces into a common site that includes the proposed 100,000 square-foot Family Justice Center. The study developed and presented two design options at the General Jim Moore Boulevard and Broadway Avenue site as well as cost estimates for those designs. The feasibility study includes a biological resources assessment to determine how to situate the project to minimize or avoid impacts. In short, by funding the feasibility study, the City has already expended its own resources to support its commitment to the Family Justice Center at the General Jim Moore Boulevard and Broadway Avenue site.

Fourth, nothing in the MFJC Resolution's CEQA recital, and no other provision in the Resolution, permit the City to impose mitigation conditions on the project, to

require an alternative, or to disapprove the project. In *Save Tara*, the Supreme Court held that a CEQA condition that merely required that CEQA's requirements be "satisfied" was not sufficient, because it did "not clearly encompass the possibility" that the City could decline to approve the project by finding that its benefits did not outweigh immitigble effects. (*Id.* at 141.) Here, the CEQA provision is even weaker than it was in *Save Tara*. In *Save Tara*, the city would act as lead agency and have some degree of control over the CEQA process. Here, however, as discussed in the next section below, the City is not the lead agency but only a responsible agency; and the City is a responsible agency only by virtue of its discretionary commitments to subsidize and convey property for the project. Because the City has already made those discretionary commitments, without CEQA, it will no longer have any discretion under CEQA to impose mitigation, require an alternative, or deny the project. This is contrary to *Save Tara's* general principle that an agency must not take action prior to CEQA review so as to foreclose its ability to require alternatives and mitigation measures. (*Save Tara, supra*, 45 Cal.4th at 138.) We discuss the infirmity of the MFJC Resolution's CEQA provision further in the next section below in connection with *RiverWatch v. Olivenhain Municipal Water Dist.* (2009) 170 Cal.App.4th 1186.

Finally, the City's commitment is to a project that is sufficiently definite for CEQA review. Although at the May 16, 2019 hearing, you and members of the City Council suggested that the project location was not definite, it is clear that the location would be on the City-owned parcel east of General Jim Moore Avenue at the head of Broadway, *because that is the land that the City controls in that "vicinity."* That is also the parcel evaluated in the feasibility study referenced in the MFJC Resolution and the parcel that officers of the Monterey County Superior Court reportedly toured for the project. The feasibility study itself describes the project sufficiently for CEQA analysis, presenting designs and specific locations for the proposed structures, the proposed square footage of those structures, a detailed analysis of parking requirements, and a cost estimate. The feasibility study is accompanied by a biological resources analysis that discusses optimal siting to avoid or minimize biological resource impacts.

2. The City has impermissibly approved a project under *RiverWatch* because it has abandoned its discretion under CEQA as a *responsible agency* to condition, deny, or require a project alternative.

It is not sufficient that the Judicial Council as *lead* agency may eventually comply with CEQA, because here the City has prematurely abandoned its discretion as a *responsible* agency.

At the May 16, 2019 hearing, members of the City Council repeatedly emphasized that the Judicial Council would be the lead agency and would be obligated to comply with CEQA. The State of California Judicial Council does act as lead agency for

courthouse projects.[1] However, because the City has committed itself to supply resources for the Family Justice Center, it is a responsible agency under CEQA and is bound to observe its responsibilities as such. (*RiverWatch v. Olivenhain Municipal Water Dist.* (2009) 170 Cal.App.4th 1186, 1206.) Like a lead agency, a responsible agency may not abandon its discretion under CEQA by committing to a project without environmental review.

In *RiverWatch*, the Court set aside an agreement by a water district to furnish water for a project that had not yet been environmentally reviewed or approved by the lead agency. *RiverWatch* holds that the water district was a responsible agency under CEQA, even though it had no permitting authority over the project, because it proposed to carry out and/or had approved part of the project simply by committing resources to support it. (*Id*. at 1206.) Here, the City is a responsible agency for the Family Justice Center because it has taken a discretionary action to commit itself to reserve, convey, and subsidize the necessary land for the project and to "support, promote, and creatively participate in the development of a Family Justice Center in the vicinity of General Jim Moore Avenue and Broadway Avenue. . .." (MFJC Resolution.).

In *RiverWatch*, the Court rejected the water district's argument that future CEQA compliance by the lead agency would be sufficient. (*Id*. at 1208.) Riverwatch recognizes that the controlling question regarding premature commitment by a responsible agency is whether the responsible agency has retained *its own* discretion under CEQA to deny or condition the project, or to require an alternative:

> Although the Agreement contained a provision regarding CEQA responsibility, that provision did not, in any reasonable construction, provide that *OMWD* [the water district] retained its complete discretion under CEQA (as a responsible agency) to consider a final EIR certified by DEH [Department of Environmental Health, i.e., the lead agency] and thereafter approve or disapprove its part of the Landfill project pursuant to the Agreement or to require mitigation measures or alternatives to its part of the project. . . . [The Agreement] does *not* provide that *OMWD* is responsible for complying with CEQA (as a responsible agency) *or* even that OMWD's performance of the Agreement is subject to OMWD's broad discretion to approve or disapprove the Agreement or to require mitigation measures or alternatives to the water delivery and construction activities set forth in the Agreement after OMWD has considered a final EIR certified by DEH regarding the Landfill project.

(*Id*. at 1212, italics in original.) A responsible agency must retain its discretion under CEQA:

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[1] This has been the case since Senate Bill 1732, the Trial Court Facilities Act of 2002, shifted the governance of California's courthouses from the counties to the State. (*See* Gov. Code, § 70391 [Judicial Council shall have full responsibility and authority to plan, construct, acquire and operate trail court facilities].)

> "A responsible agency [e.g., OMWD] complies with CEQA by considering the [final] EIR or negative declaration prepared [and certified] by the lead agency [e.g., DEH] and by reaching its own conclusions on whether and how to approve the project involved." (Cal.Code Regs., tit. 14, § 15096, subd. (a).)

(*Id.* at 1215.) As in *RiverWatch*, nothing in the MFJC Resolution provides that the City of Seaside retains complete discretion as a responsible agency under CEQA to deny the project, to impose mitigation measures on it, or to require that it be constructed at an alternative site.

Although the MFJC Resolution recites that "any further exploration of siting any public facility at the location will require adherence to CEQA processes," the *City itself* will not have the right to exercise its discretion as a responsible agency. Again, the City is a responsible agency not because it has permitting authority over the Family Justice Center that remains to be exercised, but because it has *already exercised its discretion* by committing to support the project and to reserve and convey land for it. The MFJC Resolution unequivocally commits the City to convey that land, and that conveyance is not conditioned on the *City's* right to deny the project, impose mitigation, or require an alternative site. Here, as in *RiverWatch*, the City has already exercised the only meaningful discretion it has regarding the project by committing resources to it, and the City has impermissibly done so without prior CEQA review.

Thus, as in *Save Tara* and *RiverWatch*, the reference to future CEQA compliance in the MFJC Resolution is not sufficient to escape a premature commitment to the project without CEQA.

Furthermore, as noted above, the CEQA provision in the MFJC Resolution is even weaker than the CEQA provision in *Save Tara*. In *Save Tara*, the agreement at least "conditioned conveyance of the property and disbursement of the second half of the loan on CEQA compliance." (*Save Tara, supra*, 45 Cal.4th at 140.) Here, the City has *not* conditioned its conveyance of the land on CEQA compliance. *Nothing* that the City is required to do under its MFJC Resolution is conditioned on CEQA compliance. Here, the CEQA provision, simply recites that "adherence to CEQA processes" is required for "future exploration of siting any public facility at the location." Any future "adherence to CEQA processes" would be by the Judicial Council, not by the City, because the City has already exercised its discretion by making the commitments in the Resolution. MFJC Resolution commits the City to reserve the land, and, if the State decides it wants it, the Resolution requires that the City "*shall convey*" it, a purely ministerial act not subject to CEQA. Even if the City did take *other additional* future discretionary actions related to the Family Justice Center, the actions it has already taken constitute approval of the project by a responsible agency – impermissibly done without CEQA.

Under *RiverWatch*, the City has impermissibly approved a project without CEQA by committing resources without retaining its discretion as a CEQA responsible agency. [2]

3. A commitment to convey property without retention of the right to modify, deny, or require an alternative violates CEQA.

The city's action at issue in *Save Tara* that constituted project approval was its agreement to convey property to the developer. (*Save Tara, supra*, 45 Cal.4th at 122-123.) Similarly, in *Van de Kamps Coalition v. Board of Trustees of Los Angeles Community College District* (2012) 206 Cal.App.4th 1036, a resolution authorizing the agency to make property available for rental and to negotiate lease terms and a resolution to commit the City to a purchase agreement was a project approval subject to CEQA:

> Here, the trial court properly determined that the July 15, 2009 Resolutions constituted the project approval for the purpose of CEQA review. At that time, the LACCD demonstrated its commitment to a project by directing that the LACCD "shall make the [site] available on a rental basis to a variety of service and educational entities" and authorizing the LACCD to negotiate and enter into a five-year lease agreement with Alliance. Appellant's representatives were present at the meeting when the LACCD adopted the Resolutions, and expressed their concern about the lack of environmental review given the impacts triggered by the change in land use. Also in 2009, the LACCD approved a discretionary expenditure of $400,000 to the Quatro Design Group for the purpose of redesigning the Building interior and providing other services related to the implementation of the changed use of the Building. Over appellant's objection, the LACCD additionally approved a resolution committing itself to the Portola Purchase Agreement, involving the acquisition of an adjacent property from the Portola Group.

(*Id*. at 1047.) Here, the MFJC Resolution similarly requires the City to make the property available by reserving it, and it also commits the City to an eventual purchase agreement. Accordingly, *Van de Kamps Coalition* is additional authority that the City's adoption of the MFJC Resolution violated CEQA by making commitments to convey property without CEQA compliance.

For a public project to be undertaken by a public agency, CEQA provides that an agency may not acquire a site or "formally make a decision to proceed with the use of a

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[2] The Judicial Council would be lead agency for the Family Justice Center and the City Council disclaimed lead agency status. However, even if the City were determined to have lead agency status by virtue of having been the first agency to act, it would still be required to comply with CEQA. (*Citizens Task Force on Sohio v. Board of Harbor Commissioners of the Port of Long Beach* (1979) 23 Cal.3d 812, 814; 14 CCR § 15051(c).) If the City had lead agency responsibility, under the "surrounding circumstances" test announced in *Save Tara*, the City's declared commitment to the project at the Broadway Avenue/General Jim Moore Boulevard location and its unilateral commitment to reserve and convey land for the project at that site constitute approval, since the City has abandoned its discretion to deny the project or to choose an alternative site.

site for facilities which would require CEQA review" before it completes CEQA review. (14 CCR § 15004(b)(2).) The rationale for this prohibition it that an agency "shall not undertake actions concerning the proposed public project that would have a significant adverse effect or limit the choice of alternatives or mitigation measures, before completion of CEQA compliance." (14 CCR § 15004(b).)

An exception in section 15004(b)(2) permits a public agency that is planning to undertake a public project itself to "designate a preferred site for CEQA review and [] enter into land acquisition agreements *when the agency has conditioned the agency's future use of the site on CEQA compliance*." (14 CCR § 15004(b)(2), emphasis added.) The exception does not apply here because (1) the City has not conditioned future use of the site on CEQA compliance and (2) the City is not itself planning to construct or use the Family Justice Center.

First, as discussed, the MFJC Resolution does not permit *the City* to condition any party's future use of the Family Justice Center site on CEQA compliance. Under its MFJC Resolution, the City *must* convey the land to the Judicial Council if the State funds the project, and the City has therefore failed to preserve its rights under CEQA as a responsible party to modify, deny, or require an alternative to the Family Justice Center on the General Jim Moore Boulevard and Broadway Avenue site.

Second, the MFJC Resolution is not a land acquisition agreement within the meaning of section 15004(b)(2). Section 15004(b)(2) applies on its face to a public agency that is planning to acquire land for its own public project. Here, the City is not proposing to *acquire* the land for "the agency's [i.e., the City's] future use of the site." Instead, the Resolution is a unilateral commitment to *convey the land to another agency*, the Judicial Council, for that agency's project. Again, the unilateral Resolution does not even purport to bind the Judicial Council to any terms other than payment of one dollar for the land.

As *Save Tara* holds, the "Guidelines' exception for land purchases is a reasonable interpretation of CEQA, but it should not swallow the general rule (reflected in the same regulation) that a development decision having potentially significant environmental effects must be *preceded,* not *followed,* by CEQA review." (*Save Tara, supra,* 45 Cal.4th at 134, emphasis in original.) Thus, *Save Tara* holds that the City's commitment to convey land was an impermissible project approval without CEQA compliance because the City failed to reserve its discretion to deny the project in the CEQA provision. (*Id.* at 141.) The same thing happened here.

As discussed in section 5 below, cases upholding land acquisition agreements prior to CEQA compliance are based on express and specific reservation of the agency's rights under CEQA to modify, impose alternatives, or deny a project under CEQA. That did not occur here.

4. The City's failure to consider alternative sites through a CEQA review is prejudicial.

Consideration of alternative sites that may avoid or lessen impacts is a critical part of CEQA review (*Citizens of Goleta Valley v. Board of Supervisors* (1998) 197 Cal.App.3d 1167, 1179 ["Reason requires that the agency charged with the duty to protect the environment compare impacts at feasible alternative locations."].) Action that commits an agency to particular use for a site without CEQA is an impermissible premature approve of a project. (*See, e.g., Citizens for Responsible Government v. City of Albany* (1997) 56 Cal.App.4th 1199, 1221 [by entering development agreement committing to specific uses for property, "the City contracted away its power to consider the full range of alternatives and mitigation measures required by CEQA"].)

Here, the City Council is aware that the use of the site at General Jim Moore and Broadway for the Family Justice Center is controversial and that there are feasible alternatives. The public urged the City to table the MFJC Resolution at the May 16, 2019 hearing so that the public could be heard as to alternative sites. Members of the public have urged consideration of alternative sites. A biological resources assessment included in the feasibility study acknowledges that use of the site at Broadway Avenue and General Jim Moore Boulevard may result in significant impacts to marine chaparral habitat and endangered species. Thus, in response to public concern and at its own initiative, the planning firm that prepared the feasibility study included an alternative location for the Family Justice Center adjacent to the current site of the City Hall. Despite this feasible alternative and without CEQA review, the MFJC Resolution commits the City to support, to reserve land for, and to convey the needed land for the project at the General Jim Moore Boulevard and Broadway Avenue site. The MFJC Resolution is silent as to the alternative location. The City's rejection of a feasible alternative location without CEQA review was a prejudicial abuse of discretion.

5. The *Cedar Fair, Neighbors for Fair Planning,* and *City of Irvine* cases are not relevant here because in none of those cases did an agency abandon its discretion under CEQA to modify, deny, or impose an alternative to the project.

You mentioned three cases decided after *Save Tara* that you believe to be relevant here. However, these cases are not relevant because in each case, unlike in the City of Seaside's MFJC Resolution, the agency in question retained its discretion under CEQA to condition, modify, or deny the project.

In *Cedar Fair, L.P. v. City of Santa Clara* (2011) 194 Cal.App.4th 1150, the Court held that a term sheet a for a stadium project did not constitute approval because it was not a binding contract and because the City and the Agency expressly retained discretion under CEQA to condition, deny, or select alternatives to the proposed project:

> A provision concerning CEQA compliance (Art. 1, § 1.2) states that "the City and the Agency retain the absolute sole discretion to (i) modify the transaction, create and enter into transactional documents, and modify the project as may, in their sole discretion, be necessary to comply with CEQA, (ii) select other feasible alternatives to avoid significant environmental impacts, (iii) balance the benefits of the Stadium project against any significant environmental impacts prior to taking final action if such significant impacts cannot otherwise be avoided, and/or (iv) determine not to proceed with the Stadium project. No legal obligations will exist unless and until the parties have negotiated, executed and delivered mutually acceptable agreements based upon information produced from the CEQA environmental review process and on other public review and hearing processes, subject to all applicable governmental approvals."

(Id. at 1169.) Here, by contrast, the MFJC Resolution does create a binding obligation to convey the property if the State decides to fund the project, and the City does not have any discretion to modify or deny the project. Notably, the *Cedar Fair* court characterizes the agreement at issue in that case as a merely a "commitment to continue negotiations," and distinguishes this kind of agreement from the agreements in both *RiverWatch* and *Save Tara* where the agencies had prematurely bound themselves to make resources available for a project. (*Id.* at 1171.)

In *Neighbors for Fair Planning v. City and County of San Francisco* (2013) 217 Cal.App.4th 540, the Court held that a pre-development loan agreement was not a commitment to the project because it was expressly conditioned on the City's right to modify or deny the project:

> The loan agreement explicitly stated that the City was not committing itself to the project: "By entering into this Agreement, MOH and Borrower intend to preserve the possibility of developing the Project as affordable housing by lending funds to Borrower for the Predevelopment Activities. The City does not, however, commit to or otherwise endorse the Project by entering into this Agreement. The Project remains subject to review by City agencies and City discretion to disapprove or modify the Project.

(*Id.* at 550.) Again, here, the City of Seaside has retained no such discretion to disapprove or modify the project under the MFJC Resolution.

In *City of Irvine v. County of Orange* (2013) 221 Cal.App.4th 846, the Court held that a County's decision to submit an application for state funding to expand jail facilities pursuant to Assembly Bill 900 was not approval of a project because the mere application for funding did not commit the County to proceed with the loan process or the project itself:

> The Application does not commit the County to proceed with the application process or the Musick Facility expansion. Moreover, the County did not seek to

> defer environmental review of the proposed project by conditioning its Application on future CEQA compliance. Rather, Assembly Bill 900 did not require the County to even initiate CEQA compliance until later in the process, but nonetheless designated the County as the lead agency with discretion to identify, select, and impose the mitigation measures and project alternatives it deemed appropriate. Nothing in the County's application, or the state's later conditional award to the County, committed the County to the Musick Facility expansion in a manner that effectively precluded the County from considering any project alternatives or mitigation measures that CEQA otherwise required. Accordingly, we conclude the County's Application is analogous to the term sheet in *Cedar Fair* because it did not commit the County to anything. At most, it permitted the County to explore the possibility of using state funds to expand the Musick Facility.

(*Id.* at 863.) Critically, the *City of Irvine* holding depends on the fact that the County would act as the lead agency and would therefore retain discretion to impose mitigation or alternatives:

> Under the state's process, *the County, not the state, is designated as the lead agency* responsible for complying with CEQA. (Govt.Code, § 15820.911, subd. (f); Cal.Code Regs., tit. 15, § 1751, subd. (c).) The County therefore is the public agency with discretion to determine whether and how to mitigate any significant environmental impacts associated with the Musick Facility expansion and which alternatives, if any, to consider or adopt during the CEQA process. [citation] Accordingly, the state's Assembly Bill 900 process does not limit the County's discretion to consider and impose mitigation measures or project alternatives, but rather affirms the County's authority to do so.

(*Id.* at 861-862.) Here, by contrast, the City would *not* act as lead agency, and, by its unconditional commitment to convey the property, it prematurely exercised its discretion as a responsible agency without CEQA review and without retaining the rights to modify, impose and alternative, or deny the project. *City of Irvine* emphasizes that in *Save Tara*, the "agreement committed the city to conveying its property to the developer" and therefore the "CEQA compliance condition was essentially meaningless because it merely required the preparation and certification of an EIR without reserving the city's power to modify or reject the project based on the impacts identified in the EIR." (*Id.* at 863.) Here, although the Judicial Council may prepare an EIR, the City has given up its power to modify or reject the project based on impacts identified in the EIR because it will no longer have any discretion to exercise.

6. Offer to seek resolution of this dispute

In our May 22 conversation, you agreed to raise LandWatch's concerns with the City Council on June 6, 2019 in light of our conversation and this letter. Based on that offer, I have recommended to LandWatch that it forego filing a lawsuit seeking rescission

of the MFJC Resolution until after the June 6, 2019 meeting. If the City is willing to rescind the Resolution, litigation could be avoided.

If you would like to discuss this further, please let me know. LandWatch would prefer to resolve this matter amicably and promptly.

7. Document requests

I reiterate the document requests I made to you on May 22, 2019. Pursuant to the California Public Records Act and CEQA, I requested access to the following records:

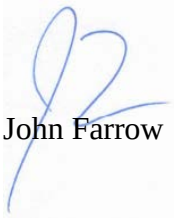
- Any resolution adopted by the City of Seaside City Council, and/or by the Successor Agency to the Redevelopment Agency, concerning the Monterey Family Justice Center, including the May 16, 2019 resolution.
- Any notice of exemption or notice of decision under CEQA adopted by the City of Seaside City Council, and/or by the Successor Agency to the Redevelopment Agency, concerning the Monterey Family Justice Center.
- Any memoranda, notes, outlines, letters, emails, or other documents discussing or evaluating the applicability of CEQA to the adoption of a resolution regarding the Monterey Family Justice Center.

I am hopeful that the requested records can be furnished to me electronically via e-mail. However, if necessary, please advise me how to obtain copies from the City.

I look forward to an amicable resolution of this matter. Please feel free to call if you think further discussion would be helpful.

Yours sincerely,

M. R. WOLFE & ASSOCIATES, P.C.



John Farrow

JHF:hs

Cc: Honorable Lydia M. Villarreal, Presiding Judge, Monterey County Superior Court
Martin Hoshino, Administrative Director, Judicial Council of California
Ian Oglesby, Mayor, City of Seaside (by e-mail)
David Pacheco, Member of the City Council, City of Seaside (by e-mail)
Jason Campbell, Member of the City Council, City of Seaside (by e-mail)
Jon Wizard, Member of the City Council, City of Seaside (by e-mail)
Alisa Kispersky, Member of the City Council, City of Seaside (by e-mail)
Craig Malin, City Manager, City of Seaside (by e-mail)
Michael DeLapa, Executive Director, LandWatch Monterey County (by e-mail)