

September 13, 2021

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**VIA ELECTRONIC MAIL**

Hon. Mayor Erica Pezold  
Hon. Mayor Pro Tempore Donald Sedgwick  
Hon. Councilmember Jeanine Heft  
Hon. Councilmember Bill Hunt  
Hon. Councilmember Donald Wheeler  
Interim City Manager Kenneth Rosenfield

**Re: Village at Laguna Hills Development Agreement Renegotiation**

Dear Mayor Pezold, Mayor Pro Tempore Sedgwick, Councilmember Heft, Councilmember Hunt, Councilmember Wheeler, and Interim City Manager Rosenfeld:

MGP Fund X Laguna Hills, LLC (MGP) is aware that the City Council<sup>1</sup> selected a representative to fulfill the Council's direction to attempt to renegotiate certain terms of the Development Agreement for the Village at Laguna Hills Project ("Project"). As you know, MGP and the City's prior representatives negotiated the terms of the current draft Development Agreement in good faith, and to the mutual satisfaction of MGP and the City's previous Council-selected negotiators, over the course of more than a year. MGP is disappointed that the Council has chosen this path and is troubled by yet further delay in Council action on applications deemed complete nearly ten months ago.

MGP is willing to meet with the Council's new representative or with members of a to-be-formed *ad hoc* Council committee on the terms of the Development Agreement so long as that effort will result in a final decision on the Project applications on or before December 14, 2021. To achieve this deadline, which is the hearing date the Council identified at its June 29th hearing, it is imperative that meetings begin immediately. MGP will commit to meeting as frequently as necessary to expeditiously conclude negotiations, including as early as the week of September 13th. We request that the Council form any *ad hoc* committee no later than its October 12th hearing, so that the committee can meaningfully participate in negotiations without jeopardizing the December 14, 2021 hearing date. To put it another way, MGP will not abide a repeat of the June 29th hearing due to the Council being dissatisfied with the terms proposed or agreed to by its designated representatives.

As to the substance of our negotiations, the Council's June 29th Motion and its July 13th Request for Proposals for Development Agreement Negotiation Services ("RFP") are unambiguous: the discussions will relate only to the Development Agreement. MGP and the

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<sup>1</sup> References to the City Council herein include the joint City Council/Planning Agency as applicable.

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City Attorney have already made it clear to the Council that any consideration of the Project's consistency with objective land use standards, including but not limited to, residential density, parking, or Urban Village Specific Plan trip budgets, is no longer legally relevant. Similarly, the City has determined that the Addendum to the City of Laguna Hills General Plan Update EIR for the Village a Laguna Hills Project is satisfactory, and that no additional analysis under the California Environmental Quality Act (Pub. Resources Code § 21000 et seq.) is required. No substantial evidence of any kind has been offered to date to change that determination. Finally, any notion that the City can change land use controls applicable to the Project site while applications are pending at a continued public hearing is nonsensical. We offer these comments now with the goal of avoiding distraction from material issues given our limited time to address the Development Agreement.

The RFP notes that the Development Agreement provides 13 different benefits to the City "which the City could not legally require of [MGP] in the absence of a Development Agreement." These include, among other benefits, unrestricted payments of more than \$2.7 million to the City within 15 months even if MGP does not build any portion of the project, \$350,000 in guaranteed, accelerated art fees within 90 days of Project approval that can be used to fund a Military Memorial, and millions of dollars in accelerated Quimby Act fees that MGP would pay even if residential buildings are delayed. This is in addition to 200 affordable units which would be the first affordable units built within the City in decades.

A Development Agreement is an arm's length bargain that requires two willing parties. MGP is willing to engage with the City's representative in good faith concerning certain items described in the RFP; however, it should be clear at the outset that MGP's ability to address these items may require reconsideration of the previously-negotiated public benefits offered to the City.

We respectfully ask that the Council direct the Development Agreement representative to contact Matthew Gray at [mgray@perkinscoie.com](mailto:mgray@perkinscoie.com) and Stephen Logan at [slogan@merlonegeier.com](mailto:slogan@merlonegeier.com) so that we can schedule an initial meeting as soon as possible.

Sincerely,



Matthew S. Gray