

August 14, 2017

J. Matthew Carroll
Assistant County Executive Officer

Catherine Rodriguez
County Chief Financial Officer

Greg Nyhoff, City Manager
Office of the City Manager
300 West 3rd Street
Oxnard, CA 93030

Shawn Atin
Assistant County Executive Officer/
Human Resources Director
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Re: The County's Proposed Settlement Offer of July 6, 2017 Entitled Outline of Proposed Settlement Agreement Between the County of Ventura and the City of Oxnard Regarding the Proposed Fisherman's Wharf Replacement Project in Channel Islands Harbor

Dear Mr. Nyhoff:

This letter is written in response to your July 12, 2017 letter in which you declined the County of Ventura's proposed settlement offer referenced above (Settlement Offer). We have now had an opportunity to discuss your letter internally, and to review it with the Board of Supervisors and the developer's representatives.

Ms. Krieger and I have very much appreciated the open and collegial spirit of the discussions we have had with you, Ms. Osuna and Ms. Golden in an effort to solve the current impasse.

The County is disappointed, however, by the City's decision to decline the Settlement Offer. We believed the City might look favorably on a proposal to expand the City's role in decisions and planning for future projects in the County's Channel Islands Harbor. We also believed there was an opportunity for compromise and agreement with regard the Fisherman's Wharf project based on the repeated request of the Executive Director of the California Coastal Commission, Jack Ainsworth, that the City agree to process in his words, a "Specific Plan Lite" for the Fisherman's Wharf project site, based in part on draft Development Standards he forwarded to the City for inclusion in your LCP amendment. These Development Standards were offered as a potential solution to the City's concerns, as outlined further, below.

Both the County and the developer have worked diligently to understand the City's concerns about process, and to offer solutions that might adequately address the City's

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and County's goals and concerns. One point on which we felt all parties agreed, was that the site is in dire need of redevelopment. My impression was also that we shared a concern about the possibility of losing such a qualified developer with a strong commitment to the community due to uncertainties and time delays. We genuinely believe this addition of accessible rental housing provides for the much-studied and documented needs of the community, and provides critical and necessary economic support for other visitor serving uses and makes the project financially viable.

As Executive Director Ainsworth explained in our recent joint meetings he hosted, Commission staff had anticipated that the City would use materials previously submitted by the County and reviewed by Commission staff as adequate for this project. As noted above, Mr. Ainsworth went so far as to submit draft Development Standards for the City to review and use for its own LCP Amendment, an amendment needed to fully conform the City's LCP to its current General Plan "Urban Village" designation for this site.

The City, in 2011, analyzed and approved the Urban Village designation for this site for at least as many residential units as the County is proposing. The County was therefore disappointed that the City stopped processing this project nearly a year ago. In adopting the Urban Village designation for the Fisherman's Wharf site, the City already evaluated all relevant environmental factors, including those related to residential uses, based on the City's certified environmental impact report (EIR) for its 2030 General Plan Update, adopted in 2011. As Mr. Ainsworth has stated, LCP amendments are subject to the Commission's certified regulatory program, and would not require more information than has already been submitted by the County.

The settlement outline we provided to City staff (Ms. Osuna and Ms. Golden) was submitted as a starting point for ongoing discussions, to help us each work together to resolve the current impasse resulting from the City's decision not to amend its LCP to conform to its General Plan. The draft settlement outlines potential roles for the City and the County to play in any significant future projects for the Channel Islands Harbor. The County hoped this effort might lead to long-term strategies for future development, increasing the City's input into all such major projects in the County's Harbor, while operating within the statutory provisions and regulatory structure of the Coastal Act and the County's certified Public Works Plan (PWP). This approach to future Harbor projects was the primary subject of the County's proposal to the City, not merely expediting the

Fisherman's Wharf project, which was designed to conform to the City's adopted General Plan.

The proposed settlement outline was not a take-it-or-leave-it final offer. Our purpose in outlining a possible solution within the broader context of a settlement, was to find a way to release this vital project from being delayed by the current impasse, especially since the County, and City staff have spent years working on this project, among others. This work included many meetings with City staff during which County staff agreed to project changes to address the City's concerns, and made them, and where the City staff gave assurances that the Fisherman's Wharf redevelopment project would be allowed to move forward with a simple LCP amendment, conforming it to the City's General Plan. According to County staff, the earliest of these reassurances regarding this specific proposal was made more than three years ago in May 2014 by City staff, and was followed by additional reassurances regarding the City's intention to conform its plans by means of a single amendment.

The County remains willing to work toward an amicable solution. With that goal in mind, we would appreciate it if you could clarify a few of the following points:

- 1) Regarding your requirement for a Specific Plan, the components of which have been provided to City staff as part of a public notice about a year ago, and then again in October 2016, you state that CEQA compliance would be required. Previously, City staff believed that the EIR certified in 2011 for the City's 2030 General Plan Update, which included analysis of an Urban Village located on the Fisherman's Wharf site, would be adequate. Are you taking the position that even an EIR supplement or addendum would be insufficient to complete CEQA review for this project? We assume that the CEQA compliance mentioned in your letter is for the newly-mandated Specific Plan only, since an LCP Amendment falls under the Coastal Commission's certified regulatory program and is exempt from CEQA analysis other than as dictated by the Commission itself. (In that regard, Commission staff have indicated on several occasions that the environmental review submitted by the County to date, and revised at Coastal Commission staff's requests, would be adequate for the required LCP amendment.)

Also, your letter states that "The City would commit to the timely preparation of the required CEQA analysis." How much time do you believe would be required? We

assume the City would be open to rapidly discussing the stated project alternatives, which were analyzed in City's 2011 EIR and in the environmental review provided by the County to the City and the Coastal Commission.

- 2) Your letter promises "timely processing" of a newly required Specific Plan. It would help if you could clarify what does "timely" mean, in this context? As you know, the County and the City have been discussing the particulars of this project for many years, and there are no elements of a Specific Plan, of which we are aware, that have not already been presented to City staff.

- 3) Finally, your letter references the City's "existing authority under its Local Coastal Plan." As expressly provided by the Coastal Act and its regulations, the City's authority is limited to advising the Coastal Commission about conformity between its LCP and the proposed PWP amendment. Recent comments by Coastal Commission staff have confirmed that the City does not have permitting authority over projects within the County's PWP. Rather, the City's scope of review is limited to approval (or not) of any LCP amendment that may be needed to obtain conformance between the proposed PWP amendment and the LCP. By submitting a PWP amendment to the Coastal Commission and requesting that it be certified by the Commission -- *the lone public agency statutorily-authorized to review PWP amendments*, the County has accepted that its own project approval is subject to review and approval by the Commission, which has the last word on any development within the PWP for the Channel Islands Harbor. If you disagree, it would be helpful if you could identify the basis for your position that the City has a right to review and approve (or not) amendments to a PWP certified, as the County's was, *prior* to the Commission's certification of the City's LCP?

The County remains willing to work with you and City staff on developing a process that will satisfy the needs of all parties while recognizing the ultimate rights and authorities of the California Coastal Commission. The County is diligently pursuing these amendments (PWP and LCP) for a project that will replace an aging, dilapidated development with new visitor services and rental housing in a mixed-use configuration to benefit the community, other visitor serving uses, and both the City and County. We hope we can jointly find a solution to this impasse.

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Sincerely,



Michael Powers
County Executive Officer

C: Members of the Oxnard City Council
 Members of the Board of Supervisors
 Members of the California Coastal Commission
 Jack Ainsworth, Executive Director, California Coastal Commission
 Lyn Krieger, Harbor Director
 Ruth Osuna, Asst. City Manager
 Ashley Golden, Director of Community Development, City of Oxnard
 Leroy Smith, County Counsel, County of Ventura