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September 15, 2021

VIA EMAIL to: cityclerk@cityofmillvalley.org

Kelsey Rogers, City Clerk
Mill Valley City Hall
26 Corte Madera Avenue
Mill Valley, CA 94941

RE: Public Records Act Request

Dear Ms. Rogers:

This firm represents Friends of Hauke Park (“FOHP”) concerning the proposed “1 Hamilton Drive” affordable housing project (“Project”). FOHP is concerned about the process and criteria utilized by the City of Mill Valley (“City”) to seemingly decide upon the 1 Hamilton Drive site, adjacent to Hauke Park, as the City’s preferred location for the Project.¹ We are therefore seeking the City’s public documents in an effort to better understand the City’s decision making.

Pursuant to the provisions of the California Public Records Act (Gov. Code, §§ 6250 et seq., (“CPRA”)), please make available for inspection and copying all documents produced by or otherwise in the possession, custody, or control of the City pertaining to the Project.

By “documents” I mean all letters, memoranda, electronic mail (“e-mail”) communications, reports, analyses, notes, maps, diagrams, ordinances, resolutions, findings, photographs, draft documents, notices, or other written or recorded materials pertaining to the requested topic and in the possession, custody or control of the City. This includes emails and text messages transmitted via personal electronic devices. (*City of San Jose v. Superior Court* (2017) 2 Cal.5th 608.) This request includes, without limitation:

¹ Refuting the City’s claim that it has not actually committed to the 1 Hamilton Drive site, the City Council is scheduled to consider a resolution declaring that site – and only that site – to be “exempt surplus” land.

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- all communications between the City and its consultant, The Housing Workshop (“THW”), along with THW’s files concerning the Project. (*Consolidated Irrigation Dist. v. Superior Court* (2012) 205 Cal.App.4th 697, 727.)
- All communications related to the selection of potential developers of the Project as well as all communications with potential developers.

We reiterate that the above bullet-point items are in no way intended as limiting our request for all public documents concerning the Project.

The request is also made pursuant to Article I, section 3(b) of the California Constitution, which provides a Constitutional right of access to information concerning the conduct of government. Article I, section 3(b) provides that any statutory right to information shall be broadly construed to provide the greatest access to government information and further requires that any statute that limits the right of access to information shall be narrowly construed.

The City must provide access to its records unless the records fall within one of the specific exemptions enumerated in the CPRA. (*State of California Ex. Rel. Division of Industrial Safety v. Superior Court* (1974) 43 Cal.App.3d 778, 783.) The overarching policy of the CPRA favors disclosure, and a refusal to disclose information can only be based on specific exceptions enumerated in the CPRA. (*Lorig v. Medical Board* (2000) 78 Cal.App.4th 462, 467.) If the City believes any of the records are exempt from disclosure by the CPRA and withholds any documents, then the agency must notify the requestor that some documents were withheld and provide the exemption(s) that justified withholding the documents. (See Gov. Code, § 6255; *Haynie v. Superior Court* (2001) 26 Cal.4th 1061, pp. 1072–74.) Recent case law clarifies that any such documents withheld from production under the CPRA may nevertheless be required for an administrative record pursuant to Public Resources Code section 21167.6, subdivision (e). (*Golden Door Properties, LLC v. Superior Court of San Diego County* (2020) 52 Cal.App.5th 746, 762.) Further, any City policy purporting to authorize the deletion of such communications would violate section 21167.6. (*Ibid.*)

I prefer to receive the documents in electronic format as soon as possible, and we do not object to a rolling production of documents. If responsive materials must be

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copied, please contact me with an estimate of duplication costs. Thank you very much for your assistance.

Very truly yours,

SOLURI MESERVE
A Law Corporation

By: 
Patrick M. Soluri

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