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**OFFICE OF THE COUNTY COUNSEL
COUNTRY OF RIVERDALE
15000 CIVIL CENTER WAY
DIXON, COLUMBIA**

July 26, 2016

Michael Standish
Counsel for Geraldine Santa Maria
1616 Oak Street
Dixon, Columbia

Re: Ms. Santa Maria's opposition of the District's Intended Conveyance of
Wildomar Property

Dear Mr. Standish:

We represent the Riverdale Regional Park District in this matter and our client, Pamela Walls, is the District's General Manager. It is Ms. Wall's position that, under the Columbia Regional Park District Act ("Act"), the "Wildomar Property (hereinafter, Wildomar) was never "actually dedicated" by means of our District's Board of Directors (hereinafter, BOD) adopting a resolution dedicating said property, and thereby is not subject to the requirement that it may only be validly conveyed with voter consent. Accordingly and for the reasons contained in this letter, we have never sought nor obtained voter consent for its conveyance. In short, we stand with the position that we may and will validly

convey Wildomar by sale to the City of Dixon.

In this letter you will find the rules applicable that support Ms. Walls' and the District's position is sounds under the facts and the law, as well as why Ms. Santa Maria's position is unsound and will not prevail in a court of law.

I. The District may validly convey the Wildomar Property for the following reasons:

The first issue Ms. Santa Maria raises under Section 40 of the Act is that a property interest that has been "actually dedicated" may not be validly conveyed without the consent of a majority of the voters of the district. The sole issue is whether District had dedicated Wildomar to "public regional park purposes" and thereby deprived itself of the power to sell the lot to any other use. In fact, the Baldwin Court precisely deals with this issue. The court states the "issue depends on whether the [property] can be deemed to have been dedicated under the common law by force of" the District's Resolution No. 1995-165.

Common law dedication entails . . . an offer by a private owner, and an acceptance by a public entitly, of real property subject to a specified restricted public use in perpetuity. (Baldwin) Such dedication may be either express or implied, and may have the character of a gift as well as a contract. (*Osuna on Real Property*) In short, the private owner's offer must be accepted by the public entity, in order for there to be dedication of the property and hence no restriction on its use. Moreover, "Cities are required to enact ordinances to enable the making of contracts for acquisition and disposition of real property." (American-Hawaiian)

Here, Lucille Potts, the private owner of Wlldomar offered to sell her property for \$980,000 to the District. In addition, she also gifted the difference

between the appraised value and the purchase price, which provided the property to be profitable for District. These facts of the contract (hereinafter, K) show that characters of both a gift as well as a K. Potts' offer expressed the dedication to its purposes in her **Grant Deed**, "for park purposes in perpetuity". Thus, Potts, a private owner of Wildomar provided District with said offer.

Moreover, District accepted first by the providing a submission of recommendations for the BOD to accept and execute the Agreement for the purchase of Wildomar, the price it could purchase for, and that the BOD could take all ministerial actions necessary and appropriate to complete the purchase of Wildomar. The BOD duly carried out by a unanimous vote that the motion recommended was to be adopted as recommended.

Next, BOD provided the **Authorization Purchase** of the property with the purchase price and conditions to which the acceptance of Potts' offer may stand. The condition provided that the necessary and appropriate actions may be taken to complete the purchase, including obtaining funds to pay the purchase price and the costs and expenses of the acquisition. The expenses of the acquisition included those that would allow for District to develop Wildomar into a regional park, with proper facilities like bathrooms and parking. However, because these funds were never able to be obtained and the property was not developed for these purposes nor at all, we conclude that Potts' offer was conditioned on this condition of obtaining the necessary funds. Since such did not occur, the condition thus, was not satisfied.

Terminal Plaza Corp provides that courts should read the provision in question according to its plain language and such that a "provision authorizing a particular action by particular means as discretionary for the action, but mandatory for the means". We apply this to the language of Resolution No. 1995-165 below.

Here, the discretionary action authorized by the BOD in this duly adopted resolution is the action to complete the purchase of the property. This means that the District may, but is not required to take such action of entering and completing the purchase of Wildomar. The means by which the District must take are those, which include "obtaining funds to pay the purchase price and the costs and expenses of the acquisition" (**Resolution 1995-165**). These means are mandatory and must be satisfied in order for the acceptance to match the offer.

As noted in **Resolution 2016-210**, although we purchased Wildomar in 1995 with the hopes of developing it into a regional park, the District has been unsuccessful in obtaining the funds necessary to develop the property into a regional park. The plain language in the **Reso 1995** says that we may purchase Wildomar, which was expressly intended for park purposes in Potts' deed, if we can obtain the necessary costs and expenses of the acquisition. The **Reso's** language can reasonably be interpreted only as an acceptance of Potts' offer conditioned that District can obtain the adequate funds to develop the property into its intended purposes.

Moreover, our intent to satisfy this condition is impliedly clear after we entered into the purchase agreement. District posted a sign posted at the end of Clayton Road that read, "The Future Site of Wildomar Regional Park". This shows our intent to satisfy Wildomar's "intended park purposes", however, the conditions and means by which to do so were never satisfied.

Therefore, District never "dedicated" Wildomar to "public park purposes", which determines that District has not deprived itself of the power to sell the property to any other use.

Accordingly, Section 40 of the Act states that a district may dispose of real property, within or without the district, necessary to the full exercise of its powers.

As stated above, District has not deprived itself of its powers, and thus may dispose Wildomar by selling to the City of Dixon.

In summary, we conclude and stand by the fact that we may validly convey the Wildomar Property without satisfying the Act's voter-consent requirement, as it is sound under the facts and the law.

II. Ms. Santa Maria's position is unsound for the following reasons:

First, we address the issue of "actual use". Ms. Santa Maria agrees that the property has not been developed into a regional park. We also agree that the property has nevertheless been used for a variety of similar uses. However, functioning as similar uses to its intended regional park purpose does not satisfy "actual use".

The Columbia Supreme Court in Collins provided that the statute they looked to (Section 13 of the Act for irrigation) is similar to analogous provisions in many other analogous statutes; one of them being Section 65 of the Columbia Act. This section, as stated in your letter, provides in plain language that the "legal title to all property acquired under the provisions of the Act shall immediately and by operation of law vest in the district, and shall be held by the district in trust for, and is dedicated and set apart for, the uses and purposes set forth in this Act". Since rules for construction of statutes apply equally to ordinances and other measures. (Terminal), we may reasonably construe the plain language of Section 65 to suggest that a public trust is placed over all of the District's property, with the district itself as the owner of the legal title, the residents as the owners of the beneficial title, and the BOD as the trustees. (Merchants) The purpose of such provisions are solely to protect the districts' residents (Sannerville)

Accordingly, Ms. Santa Maria's argument is unsound because Section 65 of the Act creates a public trust over Wildomar, and the public trust's sole purpose is to protect residents of District, such as yourself, Ms. Santa Maria.

We would like to present you with a variety of reasons why being estopped from selling Wildomar to the City of Dixon for the purposes of a community college campus would be the opposite of protecting our residents', which is the intended purpose of Section 65 according to Supreme Court case law precedent.

As you may have read in Dixon Daily News, we bought Wildomar in 1995 hoping to develop it into a regional park with athletic facilities for games, trails for running and hiking, and open space simply for enjoying. However, the funds for development never materialized. Although, the property has long been popular with hikers, hunters, and birdwatchers because of its pristine beauty, both the private owner Potts and District, never posted any signs for the public to keep out. For these reasons, many residents continuously flocked to it. We can assure you we are not "just trying to make a quick buck", as we had a sign that provided notice of our plans of the "Future Site of Wildomar Regional Park". Our main concerns are that it has been 20 years now that we have not been able to obtain adequate funds, and is not likely to come about at this time either. Moreover, since we have continuous crowds using the property even though there are no parking spaces, nor bathrooms, it has given rise to health and safety problems. **(Reso 2016)**_

_____ For these reasons, we believe the property is beautiful and believe it should be used to its greatest potential. Although, the college campus won't be a regional park, it'll have athletic facilities, trails, and open space, the kind of things we had hoped for Wildomar back in 1995. (Daily News) We agree it is not identical to our intended purposes, nor will everyone agree it is a perfect solution,

but it is close enough. This resolution will keep a middle ground for everyone to agree on. We surely hope district's resident are happy with the decision, as we are only acting in their best interest, and not "in it for the money" as you stated.

With that being said, Section 63 of the Act provides that if property, with the opinion of the board, becomes unnecessary for the purposes of the district, the board may, subject to the provisions of Section 40, sell such property. Moreover, the proceeds of any sale of such property shall be used for and applied to such purposes of the district as the board may, by resolution, determine. (Act)

We have provided all the reasons above for why the District's BOD believe Wildomar has become unnecessary. In 1995, the District intended to profit of the land in addition to developing a regional park. A profit will be made as we are selling to Dixon City for double the purchase price, however, as stated above, the development is no longer feasible, and by looking at the totality of the circumstances, Wildomar has become unnecessary for District in its current form.

Moreover, as directed by 63 the proceeds that we receive from the sale will be used for our other regional parks. This is one more reason to prove that we are not selling "just ...to make a quick buck" and one more reason our BOD believes this is "a win for everyone". The property will finally be developed and put to productive use, while still maintaining its beauty, since there will be trails for the hikers, athletic facilities, which is what we intended to provide, and open space for birdwatchers and all of the community residents.

Therefore, we stand by our position and confidentially believe the District would prevail against Ms. Santa Maria's contrary and unsound position.

In regards to your "actual dedication" argument under the common law, we provide our support of legal authority in the first section above. We concluded that Wildomar was not actually dedicated due to the condition of obtaining the necessary funds for the acquisition of developing the land for its regional park purpose was not satisfied. Thus, District has not been deprived of its power to sell the land for other purposes, such as the college campus.

In regards to your "actual dedication" argument under Section 65, we provide our support of legal authority and reasonable interpretations in the latter section (right above). Additionally, we would like to argue that even if Wildomar was "dedicated" pursuant to 65, Section 63 still grants District the discretion to deem the property unnecessary for our (intended) purposes, which was to develop the land into a regional park and will always be to protect our residents' safety and best interests. With this discretion, 63 also grants the power to sell such property, so long as the proceeds of the sale is used and applied to such purposes, which our BOD have determined by **Reso 2016**.

For all reasons mentioned, we conclude that Ms. Santa Maria's position is unsound and will be unsuccessful in the court of law.

Accordingly, the District will go forward with the conveyance notwithstanding Ms. Santa Maria's threatened litigation. We have provided our response in an expediated fashion, pursuant to your request, and we wish Ms. Santa Maria is now in understanding and agreement based on the legal authority and facts provided.

Very truly yours,

Charles Drumm, Assistant County Counsel
Counsel for Ms. Walls, District's General Manager

Question #1 Final Word Count = 2317

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