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February 24, 2010

VIA FACSIMILE AND FIRST CLASS MAIL

Edmund Connor
Connor, Fletcher & Williams, LLP
2600 Michelson Drive, Suite 1450
Irvine, California 92612

Re: Tustin Unified School District v. City of Tustin

Dear Mr. Connor,

On February 12, 2010, the Friday before a long holiday weekend, at approximately 5:00 p.m., you emailed and delivered an 11-page letter to my office which essentially communicated a harsh ultimatum: approve the Tustin Unified School District's (the "District") grading plans, the water quality management plans, and issue the encroachment permits by February 17, 2010 or else your client would seek legal recourse.

In response to your letter, which I first received the morning of February 16, 2010 and which I was not able to discuss with my client until late that afternoon, I sent you an email on February 17, 2010 requesting an opportunity to respond to your letter before the matter escalated any further. Because your letter raised several issues and concerns and was full of statements that reflect your client's misunderstanding of the limited role the City is obligated to perform in the approval process, I expressed that I would provide you with a response and an outline, by the end of business on February 24, 2010, of what I believe could have been a mutually satisfactory approach to handling these matters now and in the future.

Notwithstanding my request, two days after receiving my email you filed a lawsuit against the City of Tustin on Friday, February 19, 2010. Now, we write this letter to obviate the need for your client to seek some sort of preliminary interim equitable relief against the City.

Contrary to the assertions in your letter and the complaint, the City has not created unreasonable roadblocks to the development of the Heritage School site and the improvements to Tustin High School. As you know, the District has submitted incomplete grading plans and water quality management plans to the City for review and has paid the applicable fees. The City returned these plans with requests for further information pertaining to the City's concerns over the drainage and storm water runoff issues associated with the new development.

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In your letter you concede that “school districts are required to comply with local ordinances regarding the construction of onsite grading and drainage improvements” and you specifically request that the City issue the District its desired grading permits, encroachment permits, and approve its water quality management plan. It is curious as to why you are now taking a contrary position.

It thus appears that the parties have a legal dispute about whether State and local law require the District to obtain a grading permit, encroachment permit, and to seek approval of its water quality management plan from the City, and whether the District is required to pay the City fees associated with the approval process.

Apparently, even though the District received the property for the Heritage School site in July 2003 and have admittedly been aware since “June 2009” that the City would enforce its right to require a grading and encroachment permit and water quality management plan for the Heritage site, your client alleges that if it does not commence construction before March 1, 2010 it will lose its federal land grant to build on that site. This allegation is based on a letter that the District received from the Department of Education “two weeks ago” according to your complaint, a letter that the City has not seen and did not learn the existence of until we received your complaint.

Converse to your client’s false and inflammatory statements in the complaint, the City is and has always been concerned with the well-being of students. In case you don’t remember, it was the City and City Council who arranged for and secured the conveyance of the Heritage School site from the Department of the Navy to the District at no cost to the District. Furthermore, the City’s requirements that the District obtain a grading and encroachment permit and submit adequate water quality management plans are not a targeted assault against the District. Other public agencies, including Rancho Santiago and South Orange County Community College Districts have cooperated with these City requirements and submitted their plans to the City for review and approval.

In light of the City’s long-standing history of support for the District and its students, the City proposes two options to alleviate any potential harm the District could suffer as a result of the purported March 1, 2010 Department of Education deadline.

Option No. 1: The District and the City go hand-in-hand to the Department of Education and request a temporary extension from the March 1, 2010 deadline. We explain to the Department that we have legitimate legal dispute which we are proceeding to resolve in the California courts. Prior to approaching the Department, we can set a briefing schedule with the court. This way, we can present a streamlined request to the Department to grant an extension for an estimated 6-8 month time period pending resolution of the legal issues.

Option No. 2: The District submits the remaining information required by the City to issue the grading permits, encroachment permits, and approve the water quality management plans. The City will not require the easement or the landscape maintenance agreement at this

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time. The City will issue the permits and approve the plans. The District can therefore commence construction before the March 1, 2010 deadline. We will do all this pursuant to an agreement that neither the District nor the City are waiving their rights to litigate the issues raised in the District lawsuit. Thus, the District would not be waiving its arguments that it is not required to obtain such permits and any other arguments it may have with regard to these permits. We will agree that these issues are not moot and will be litigated in full in the pending lawsuit. Proceeding in this matter will enable the District to move forward with the construction.

We do not think it is appropriate for two public agencies to be litigating against one another. Notwithstanding the City's attempts to resolve these issues amicably it appears that we have no choice but to aggressively defend the allegations contained in your client's complaint. In the meantime, we hope that you will find one of the proposed options capable of preventing the harm you allege may occur on March 1, 2010. Please contact Lois Bobak of this office immediately if you would like to pursue either option.

Very truly yours,

WOODRUFF, SPRADLIN & SMART
A Professional Corporation



DOUGLAS C. HOLLAND

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