



# SCHOOL & COLLEGE LEGAL SERVICES OF CALIFORNIA

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December 7, 2021

Una Glass, Mayor  
Sebastopol City Council Members  
City of Sebastopol  
7120 Bodega Ave  
Sebastopol, CA 95473

Re: Temporary RV Village Pilot Program – December 7, 2021 Meeting

Dear Mayor Glass and Sebastopol City Council Members:

On behalf of the Sebastopol Independent Charter School (“Charter School”), it has come to our attention that the Sebastopol City Council is planning to take action this evening to possibly approve the Agreement with Sonoma Applied Village Services (SAVS) for the RV Village Pilot Program (“Program”), located at 845 Gravenstein Highway North.

It was our hope that the City Council would hold off on approving the SAVS Agreement until they were able to hear the comments and concerns from the Charter School community at the Town Hall meeting on December 9, 2021.

However, the City Council has again decided to take action prior to any meaningful communication or engagement with the Charter School or the Sebastopol community. As such, if the below concerns are not addressed by the City Council prior to the approval of the SAVS Agreement, legal action against the Sebastopol City Council will likely ensue.

### Security Concerns

First, similar to what is currently in place for the Los Guilicos Village, the SAVS Agreement needs to require 24-hour, on-site, professional security. The proposed SAVS Agreement only requires 24-hour, on-site security for the first 30-days. After the expiration of the 30-days, only night-time security will be provided that coincides with curfew hours and any additional security will be jointly determined by the parties based on the number of incidents that have occurred within the RV Village and the neighborhood incidents related to the Village residents and guests. This is completely unacceptable. We cannot jeopardize the safety of our students, staff, and community members with a “wait and see” approach. 24-hour, on-site, professional security for the entire duration of the SAVS Agreement is mandatory and legally prudent.

Second, the SAVS Agreement needs to require SAVS to provide the Charter School with a point of contact who is available 24-hours a day, if needed. The Charter School has already dealt with several incidents related to homeless individuals coming onto the school campus, including a



trash can fire found this morning inside the carport of the Charter School's Administrative Building. This is a reasonable request that should be incorporated into the SAVS Agreement.

Third, while the SAVS Agreement precludes Village residents from being a registered sex offender, there are no screening requirements for guests of residents or policies on the amount of time guests are permitted to stay within the RV Village. The SAVS Agreement needs to include the requirements for the guest policy, not just a statement that one will be adopted by the Village Council.

Fourth, Section XV, Security, subsection 4, of the SAVS 24/7 Safe Parking Operations Manual states that SAVS will require that residents remain off the Charter School property and failure to comply with this requirement will be a violation of Village rules, which may result in temporary or permanent suspension from the Village. We ask that the SAVS Agreement be revised to reflect that the trespass onto the Charter School's property will result in permanent suspension from the Village. We also ask for the City and SAVS to consider installing a fence along the property line between the Charter School and the Joe Rodota Trail to deter such trespass from taking place.

Lastly, the Charter School is gravely concerned about the lack of experience SAVS has in operating the RV Village. From what we can find, SAVS has never operated a homeless shelter and this will be its first. In light of this information, we strongly urge the City Council to require these additional security measures. Failing to do so is an endangerment to the Sebastopol community and it will expose the City of Sebastopol, SAVS and St. Vincent De Paul to potential liability.

#### Dispute Resolution for Charter School Concerns

Section XV, Preliminary Provisions, subsection 16 of the SAVS 24/7 Safe Parking Operations Manual requires SAVS to meet with Charter School representatives and to follow-up and address any concerns and needs of the Charter School during the term of the SAVS Agreement. However, there is no specificity around how disputes between the Charter School and SAVS will be resolved. The SAVS Agreement needs to expressly set forth a process should the Charter School and SAVS be unable to resolve a matter. This process should include the involvement of the City.

#### CEQA

In addition to the above concerns, this letter is intended to advise you of our serious concerns about the City moving forward with approvals for this Program with little or no compliance with the California Environmental Quality Act (CEQA).

It is fundamental that once an agency determines that an activity is subject to CEQA (i.e., that it is a "project"), it must take no action that changes the physical environment or that approves the operation of a facility that may have an impact on the environment (including issuance of permits) until a public agency renders a determination under CEQA. These "physical changes"

can include such impacts as air quality, aesthetics, transportation, and public safety. The RV Village may have impacts on any or all of these categories of environmental factors, none of which have been considered by the City.

In its staff report for the November 30, 2021 City Council meeting, for example, the only comments that even remotely address the potential environmental impacts are:

The proposed site has a General Plan Land Use and Zoning designation of “Community Facilities,” as well as the Environmental and Scenic Open Space (ESOS) overlay zoning. The Community Facilities zoning permits parking facilities, which is similar to the proposed use (most ‘safe parking’ programs in California are classified as a parking use). Additionally, the ESOS zoning exempts City projects as long as they do not include construction of buildings for occupancy.

The portion of the City parcel proposed for this use is already developed with the City’s Public Works stock yard for materials and other storage uses. Planning staff are evaluating the CEQA (California Environmental Quality Act) requirements for this site given the temporary use of the Project, as well as continuing to evaluate the site background.

An acknowledgement that the Program meets the zoning designation if it does not require construction of new buildings falls woefully short of meeting the requirements of CEQA. Indeed, the staff report candidly seems to acknowledge that its analysis is incomplete, given that the City planning staff is still “evaluating the CEQA . . . requirements for the site,” but are apparently allowing this Program to move forward “given the temporary use of the Project.”

At the very least, before it enters into any contractual obligations with SAVS for the Program, the City should adopt an environmental determination for this project — whether that be an Environmental Impact Report (EIR), a negative declaration, or a Notice of Exemption. Only then can the public be assured that such impacts on neighboring properties, including those that arise from the use of the Program site, will be considered and, if necessary, mitigated.

The law is clear that the City *cannot* defer environmental review until after a decision is made on a project, and this applies to any approval, including those under consideration by the City here. CEQA Guidelines, section 15004(a), entitled “Time of Preparation,” states as follows: “Before granting any approval of a project subject to CEQA, every Lead Agency or Responsible Agency shall consider a final EIR or Negative Declaration *or another document authorized by these Guidelines* to be used in the place of an EIR or Negative Declaration.” (emphasis added).

This was established long ago by the California Supreme Court when it stated “If postapproval environmental review were allowed, EIR’s would likely become nothing more than post hoc rationalizations to support action already taken.”<sup>1</sup> The City has *no* discretion to define approval

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<sup>1</sup> *Laurel Heights I, supra*, 47 Cal.3d 376, 394.



so as to contractually obligate itself to the Program preceding the required preparation of an environmental clearance document.<sup>2</sup>

In this case, the City has apparently conceded that the Program is subject to CEQA, but that the “[p]lanning staff are evaluating the CEQA requirements.” This seems to acknowledge that no environmental determination has been adopted, or even analyzed, yet the staff report is recommending that the City Council move forward with entry into an agreement with SAVS for the Program. If this is in fact true, the City is in violation of CEQA.

The City at the very least has an obligation to analyze the possible impacts of this Program on surrounding uses of property, such as noise, traffic, aesthetics, and especially where the Charter School is concerned, public safety.

From a CEQA viewpoint, the fact that this Program is intended to be a temporary use of the site is irrelevant. CEQA prohibits “segmentation” of a project, whereby only specific parts of the overall project are analyzed, so as to reduce the apparent impact of each “piece.” CEQA requires that the City analyze “the whole of the projects” and consider the currently proposed temporary Program along with any potential permanent use of the site under the Program.<sup>3</sup> Indeed, once a project has been approved, a public entity is generally not free to reject its renewal, because the operator often can raise constitutional issues about the arbitrary interference with a vested property right.<sup>4</sup> This only underlines how important it is for the City to do a proper CEQA analysis before this Program becomes a potentially permanent feature of this neighborhood.

In light of the above, it is our sincere hope that the City Council will take the Charter School’s requests seriously and hold off on approving the SAVS Agreement until they can all be properly addressed.

Sincerely,

A handwritten signature in black ink, appearing to read "Loren Soukup".

Loren W. Soukup, Senior Associate General Counsel  
School & College Legal Services of California

Cc: Lynda Hopkins, District 5 Supervisor, Sonoma County Board of Supervisors  
Larry McLaughlin, City Manager/City Attorney, City of Sebastopol  
Adrienne Lauby, President, Sonoma Applied Village Services

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<sup>2</sup> *Save Tara v. City of West Hollywood* (2008) 45 Cal.4th 116, 132.

<sup>3</sup> See CEQA Guidelines, 14 Cal. Code of Regs. § 15378.

<sup>4</sup> See, e.g., *Goat Hill Tavern v. City of Costa Mesa* (1992) 6 Cal.App.4th 1519, 1528-1529.