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September 19, 2023

Marina Coast Water District  
11 Reservation Road  
Marina CA 93901

RE: Proposed Transfer of MCWD Water outside of District Boundaries

Dear MCWD:

This letter is to respectfully oppose the transfer of water outside of the MCWD service and district boundaries to any entity until MCWD is able to fulfill its obligations to serve all properties within its existing service area boundaries. This letter further will serve as notice that Seaside intends to protect its rights to be provided with and be served water for its existing and planned projects in a fair, equitable, and non-discriminatory manner, consistent with state law.

Water districts formed for the primary purpose of providing water are charged with an affirmative duty to both serve and plan to serve the properties within their boundaries. The water and water rights obtained by a water district are dedicated to public use *for the benefit of customers within the boundaries of the district*. (Cal Const. Article X section 5; People ex rel City of Downey v. Downey County Water District (1962) 202 Cal. App. 2d 786, 792). The district must provide water under reasonable terms and conditions. (Brydon v. East Bay MUD (1994) 24 Cal. App. 4<sup>th</sup> 178; Turlock Irrigation District v. Zanker (2006) 140 Cal App. 4<sup>th</sup> 1047).

There are multiple potential violations of the Housing Accountability Act (illegal growth restrictions), environmental justice concerns, and water law requirements to serve associated with any transfer of water or recycled water outside of MCWD boundaries. On the expressed basis of a limitation of water supply, MCWD required the City of Seaside to generate its own long term water supplies in order to serve its Campus Town development, a project which will generate both substantial housing (1485 units) as well as affordable housing. The cost of providing these additional water supplies to MCWD is estimated to cost the City almost \$28 million in fixed cost infrastructure and an additional amount of over \$1.1 million dollars a year. This is on top of Campus Town developers building brand new infrastructure for MCWD, paying additional capacity costs to MCWD and paying the ongoing water rates, even though MCWD is already supplying water and servicing properties within the Campus Town area. The net effect is to cause the City of Seaside's housing development to be substantially more costly than it should be given that MCWD has access to sufficient excess water to serve a jurisdiction not located within its service boundaries. Likewise, pursuing a water project which will generate additional advance treated water, such as receiving additional source waters, only to be served outside the district is also inappropriate, given that properties within the district have well

known recycled water needs. In Seaside, both CSUMB as well as the Seaside Highlands project, and the golf course residential development both have needs and demands for recycled water.

Although California Water Cost section 31023 authorizes a water district to dispose of "surplus" water outside its district boundaries, MCWD does not have surplus water as it is illegally requiring its properties within its service boundaries to generate additional long term water supplies before MCWD will serve those properties.

We respectfully request that MCWD issue will-serve letters to multiple properties/water users within the MCWD service boundaries that have been disadvantaged by the application of these discriminatory and illegal policies including, the Campus Town developers, Chartwell school and others who are seeking to be served based upon plans which were authorized by the Fort Ord Reuse Plan and the City of Seaside's planning documents. Furthermore, we respectfully request that MCWD focus on bringing recycled/treated water to those entities who have been waiting years for use of such water for irrigation purposes, such as the Seaside Highlands and other properties that will need reclaimed water. This letter will provide notice that if necessary the City will be taking the next steps in order to pursue its other remedies to the fullest extent afforded to it.

Sincerely,  
City Attorney



Sheri L. Damon

Cc: City Manager  
City Council