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TO: The trustees of the **Liesbeek Leisure Property Trust**

ATT: AJF Mundell, J O Tannenberger;
AJ Blow, NS Ferguson, J. Aufrichtig

FROM: Hercules Wessels hercules@greencounsel.co.za

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Dear trustees

REQUEST FOR UNDERTAKING TO DELAY ALTERATION OF RIVER CLUB SITE

1. We represent the Observatory Civic Association, a voluntary association that is registered as a non-profit organization under the Non-profit Organizations Act, 1997 ("the OCA").
2. On 3 May 2021 the Liesbeek Leisure Property Trust ("LLPT") gave notice to the Western Cape Department of Environmental Affairs and Development Planning ("DEA&DP") that it intends to commence the development of the River Club precinct ("the Proposed Development") in or about mid-June 2021 or as soon as possible thereafter. Although this notice was subsequently retracted, we presume that it is still your intention to commence developing the River Club site ("the Site") as soon as possible.
3. The OCA intends to apply to the High Court (Western Cape Division) for an order reviewing and setting aside the environmental authorisation and the land use planning authorisations which permit the LLPT to undertake the Proposed Development, and the decisions to dismiss the appeals against the environmental

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authorisation and the land use planning authorisations, respectively (referred to collectively below as “the Authorisations”).

4. As you will appreciate, the Proposed Development will have very significant heritage and environmental impacts and will have a direct and substantial impact on the residents and businesses of Observatory, whose interests the OCA represents. The OCA and many other concerned organizations and individuals believe that it is not in the public interest for the Proposed Development to proceed. The significant public opposition to the Proposed Development is apparent from the extensive press coverage of this issue over several years, petitions opposing it, discussions on social media, the pending applications for the site to be graded as a Grade II provincial heritage resource, and protests such as the *Walk of Resistance* which took place on Freedom Day, 27 April 2021. In the light of this, the OCA believes that it is very important that the validity of the Authorisations be tested in open court.
5. The OCA intend to launch the application referred to in paragraph 3 above, as soon as reasonably possible. However, it will take some time to prepare the application papers, particularly given the long history of this matter and the large volume of relevant documents that must be considered.
6. The OCA and its members are particularly concerned that the commencement of earth works and other alterations to the site will have irreversible impacts on extremely important heritage as well as on the ecosystems associated with the Black and Liesbeek rivers. Consequently we have been instructed to request you to provide a written undertaking on behalf of the LLPT that you will not permit the commencement of any earth works or other alterations to the Site (including those parts of the Site owned by the City of Cape Town) until the review application referred to in paragraph 3 above has been finally determined. This undertaking may be subject to the condition that the OCA must institute those review proceedings by 21 June 2021, failing which the undertaking will lapse.
7. In our view, there is a reasonable prospect that the proposed review application would succeed. Consequently it is essential to ensure that the irreversible harm that the OCA and others seek to prevent by challenging the Authorisations, does not take place before the lawfulness of the Authorisations has been finally determined. The easiest and most expeditious way to achieve this is by you providing the undertaking requested in the previous paragraph. If you are unwilling to provide this undertaking (or a similar undertaking acceptable to our client) then our client will have no option but to approach the High Court for interim relief.
8. Please acknowledge receipt of this letter and confirm that you will respond to our request in writing by no later than **noon on Monday, 17 May 2021**.

Yours sincerely

A handwritten signature in dark ink, appearing to be a stylized name, possibly 'Hercules Wessels', written in a cursive or semi-cursive style.

CULLINAN & ASSOCIATES INC.

per: Hercules Wessels