



San Bernardino County

Legislation Text

File #: 5097, Agenda Item #: 36

**REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS
OF SAN BERNARDINO COUNTY
AND RECORD OF ACTION**

November 16, 2021

FROM

STEVEN O'NEILL, Interim County Counsel, County Counsel

SUBJECT

Conflicts Consent Letter with Meyers Nave

RECOMMENDATION(S)

1. Approve conflicts consent letter with Meyers Nave with respect to Meyers Nave's representation of Eagle Yucaipa 55, LP in connection with an affordable housing project matter.
2. Authorize the Interim County Counsel to execute the conflicts consent letter with Meyers Nave.
(Presenter: Steven O'Neill, Interim County Counsel, 387-5455)

COUNTY AND CHIEF EXECUTIVE OFFICER GOALS & OBJECTIVES

Operate in a Fiscally-Responsible and Business-Like Manner.

Pursue County Goals and Objectives by Working with Other Agencies and Stakeholders.

FINANCIAL IMPACT

Approval of the conflicts consent letter will not impact County discretionary funding.

BACKGROUND INFORMATION

The law firm of Meyers Nave provides outside legal counsel services to San Bernardino County and other Board of Supervisors' governed entities on matters that require specialized legal services, including real property, environmental, and litigation matters.

Meyers Nave recently informed the Office of County Counsel (County Counsel) that it represents Eagle Yucaipa 55, LP (Eagle) in connection with an affordable housing project matter. More specifically, Meyers Nave disclosed that they were asked to represent and advise Eagle regarding a loan agreement between the County and Eagle or its affiliate for an affordable housing project. As a result, Meyers Nave has informed the County that in advising Eagle regarding the loan agreement matter, actual or potential conflicts of interest could conceivably arise should the interests of Eagle and the County become inconsistent or adverse to each other.

Pursuant to the applicable sections of the California Rules of Professional Conduct (Rule 1.7), Meyers Nave is requesting the County provide its informed written consent to their proposed representation of Eagle, in the form of a conflicts consent letter, regarding the loan agreement matter, as well as their continued representation of the County regarding other unrelated matters currently existing or in the future, where Eagle and the County are not simultaneously involved.

To avoid the potential for any possible conflict of interest arising in the future as to Meyers Nave's concurrent representation of Eagle and the County, Meyers Nave intends to conduct themselves in the following manner: a) The scope of the new engagement for Eagle will not involve any issues or subjects about which they are advising the County; b) Meyers Nave will not disclose to each party any confidential information they have acquired or acquire at any time in the present or future as a result of their lawyer-client relationship; and c) Meyers Nave will exercise independent professional judgment on behalf of the County in any matter in which their firm represents the County, unaffected to any extent by Meyers Nave's then current or potential future relationships with Eagle.

County Counsel has reviewed the conflicts consent letter and believes there would be minimal risk to the County's interests, and it would be appropriate for the Board of Supervisors (Board) to approve the conflicts consent. On June 22, 2021 (Item No. 40), the Board previously approved a consent to concurrent representation associated with Meyers Nave and BNSF Railway Company. Upon Board approval of this item, the Interim County Counsel will execute the conflicts consent letter with Meyers Nave.

PROCUREMENT

Not applicable.

REVIEW BY OTHERS

This item has been reviewed by County Counsel (Julie Surber, Principal Assistant County Counsel and Scott Runyan, Supervising Deputy County Counsel, 387-5455) on November 1, 2021; Finance (Carl Lofton, Administrative Analyst, 387-5404) on November 1, 2021; and County Finance and Administration (Robert Saldana, Deputy Executive Officer, 387-5423) on November 1, 2021.