



San Bernardino County

Legislation Text

File #: 2897, Agenda Item #: 36

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

September 15, 2020

FROM

MICHELLE D. BLAKEMORE, County Counsel

SUBJECT

Waiver of Conflict of Interest with Goldfarb & Lipman LLP Law Firm

RECOMMENDATION(S)

1. Approve Waiver and Consent that approves the waiver of a potential conflict of interest arising out of the representation of the County of San Bernardino by the Goldfarb & Lipman LLP law firm associated with the development of the multifamily affordable housing project known as the Las Terrazas Apartments.
2. Authorize the County Counsel or the Chief Assistant County Counsel to execute the Waiver and Consent regarding the potential conflict of interest.

(Presenter: Michelle D. Blakemore, County Counsel, 387-5455)

COUNTY AND CHIEF EXECUTIVE OFFICER GOALS & OBJECTIVES

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

FINANCIAL IMPACT

Approval of the Waiver and Consent will not require the use of additional Discretionary General Funding (Net County Cost). Sufficient appropriation exists in the Department of Community Development and Housing (CDH) 2020-21 budget to pay for the legal services that are provided by Goldfarb & Lipman LLP (Goldfarb).

BACKGROUND INFORMATION

Goldfarb is representing the County with the development of the Las Terrazas Apartments multifamily affordable housing project (Project). Goldfarb has the special skills, knowledge, experience, and expertise in the area of developing affordable housing projects to effectively advise, assist, and represent the County on such matters. In August 2020, Goldfarb and the County learned that the Las Palmas Foundation (Foundation) had been brought in to be the managing general partner of a tax credit limited partnership that was formed to develop, own, and operate the Project. Rafael Yaquian of Goldfarb is representing the County, which is providing a loan to the Project, and Amy DeVaudreuil of Goldfarb will be presenting the Foundation in connection with reviewing the limited partnership agreement under the low income housing tax credit program (the Transaction). Goldfarb recognizes there is a potential conflict of interest between the County on one side and the Foundation on the other when reviewing the Transaction. Accordingly, Goldfarb is requesting that the County and the Foundation each waive the potential conflict of interest and agree to Goldfarb representing the County and the Foundation in the review of the tax credit equity documents.

Attorneys and other personnel who work on matters for the Foundation will not be allowed to work on matters for the County. Goldfarb personnel who work on matters for the County will take into account only the interest of, and will owe their professional obligations only to, the County, and the attorneys and personnel who work on matters for the Foundation will do the same for the Foundation.

County Counsel has reviewed the Waiver and Consent and believes that there would be minimal risk associated with Goldfarb's representation of the County on the Project and Transaction. County Counsel therefore believes it would be appropriate for the Board of Supervisors to approve the Waiver and Consent and authorize the County Counsel or the Chief Assistant County Counsel to execute the Consent.

PROCUREMENT

Not applicable.

REVIEW BY OTHERS

This item has been reviewed by County Counsel (Suzanne Bryant, Deputy County Counsel, 387-5455) on September 3, 2020; Finance (Carl Lofton, Administrative Analyst, 387-5404) on September 8, 2020); and County Finance and Administration (Robert Saldana, Deputy Executive Officer, 387-5423) on September 8, 2020.