

**goldfarb
lipman
attorneys**

1300 Clay Street, Eleventh Floor
Oakland, California 94612
510 836-6336

June 4, 2018

via email only

M David Kroot

Lynn Hutchins

Karen M. Tiedemann

Thomas H. Webber

Dianne Jackson McLean

Michelle D. Brewer

Jennifer K. Bell

Robert C. Mills

Isabel L. Brown

James T. Diamond, Jr.

Margaret F. Jung

Heather J. Gould

William F. DiCamillo

Amy DeVaudreuil

Barbara E. Kautz

Erica Williams Orcharton

Luis A. Rodriguez

Rafael Yaquián

Celia W. Lee

Dolores Bastian Dalton

Joshua J. Mason

Eric S. Phillips

Elizabeth R. Klueck

Daniel S. Maroon

Justin D. Bigelow

Nahal Hamidi Adler

Aileen T. Nguyen

Sharon Anderson, County Counsel
Contra Costa County
651 Pine Street, 9th Floor
Martinez, CA 94553

Teri House, CDBG/Housing Consultant
City of Antioch
Community Development Department
200 H Street, 2nd Floor
Antioch, CA 94509

Re: Joint Representation and Potential Conflict of Interest – Pinecrest Apartments and Terrace Glen Apartments

Dear Ms. Anderson and Ms. House:

We are writing this letter in response to your request that Goldfarb & Lipman LLP ("Goldfarb & Lipman") jointly represent the County of Contra Costa (the "County") and the City of Antioch (the "City") in connection with City and County financing to be provided to a limited partnership affiliate of Resources for Community Development, a California nonprofit public development corporation ("RCD") for the refinancing of two existing projects: Pinecrest Apartment and Terrace Glen Apartments, both in Antioch, California.

The primary purpose of this letter is to request your acknowledgment of and consent to the potential conflict of interest that arises from Goldfarb & Lipman's joint representation of the County and the City in this transaction. Isabel Brown is the attorney working with the County, and Karen Tiedemann is the attorney working with the City. Although different Goldfarb & Lipman attorneys represent the County and the City in the transaction, such representation is still considered joint representation.

I. Current Transaction.

The Pinecrest /Terrace Glen project is the refinancing of two existing projects: Pinecrest Apartment and Terrace Glen Apartments, in Antioch, California. Pinecrest has 24 units and Terrace Glen has 32 units. Both project have existing financing from the City and the County, and will be getting new financing from the County. Both projects are currently owned by affiliates of RCD.

To finance the rehabilitation of the projects RCD will utilize tax-exempt bond financing with the County acting as issuer of the bonds and low income housing tax credits. The current RCD-affiliated owners will sell the projects to a new RCD-affiliated limited partnership. Both projects will be combined into one project in order

San Francisco

415 788-6336

Los Angeles

213 627-6336

San Diego

619 239-6336

Goldfarb & Lipman LLP

to leverage more tax credit equity and private debt (the "Development"). RCD has requested that the County and the City separately document the Development as one transaction from each lender, combining existing and new financing. This will require possible amendments or modifications to the existing County and City loan documents, assignments of the existing County and City financing to the new project owner, and new County and City loan documents including but not limited to loan agreements, promissory notes, deed of trusts, and regulatory agreements. The principal amount and accrued interest of the outstanding County debt is approximately \$958,595 and \$1,384,270, and the principal amount of the proposed County debt is \$1,300,000 (collectively, the "County Loan"). The principal amount and accrued interest of the outstanding City debt is approximately \$1,328,337 and \$2,202,277 (collectively, the "City Loan"). The County Loan and the City Loan will each have a term of fifty-five (55) years.

It is our understanding that both the City Loan and County Loan will be repayable from excess cash flow (if any) from the Development. The Development is proposed to be restricted to persons earning at or below sixty percent (60%) of Area Median Income. Cash flow from developments of this income level tends to be minimal as most income generated is used for operating expenses including debt service on commercial bank financing.

To effect the sharing of Development cash flow, the City and the County will enter into an Intercreditor Agreement that documents the repayment of the City Loan and the County Loan, in proportion to the amount of the City Loan and the County Loan. Those repayment provisions will also be set out in the County Loan Agreement. The Intercreditor Agreement may also set forth the City and County agreement as to the lien position of the deeds of trust for the City Loan and County Loan and the process for addressing foreclosure of such deeds of trust.

The Intercreditor Agreement proposed to be used is a standard form that the County has used on multiple other transactions when County and other public agency funds are part of the project financing and is generally not a heavily negotiated document. The County and the City previously entered into an Intercreditor Agreement for the Tabora Gardens project. This is the only document in the transaction where both the County and the City are parties.

The County has requested that Goldfarb & Lipman represent the County in all aspects of its role in the Development including the drafting and negotiating of the documents evidencing the County Loan. The Contra Costa County Counsel's office will review all documents and will be involved in any negotiations of the Intercreditor Agreement.

The City has requested that Goldfarb & Lipman represent the City in all aspects of its role in the Development including the drafting and negotiating of the documents evidencing the City Loan.

II. Rules of Professional Conduct

As attorneys, we are governed by specific rules relating to joint representation of clients when we are representing more than one party in a transaction. According to the Rules 3-310(A), (B), (C), and (E) of the Rules of Professional Conduct of the State Bar of California, we must disclose certain information, and obtain the written consent of the County and the City in order to represent both clients.

III. Joint Representation

As discussed above, the County's and the City's consents are being requested because of the potential conflict of interest which may arise due to Goldfarb & Lipman's existing relationships with the County and the City, and the joint representation of each of you in the Development.

A. Existing Relationships

The County is an existing client. We represent the County on numerous housing loan transactions throughout the County.

The City is also an existing client. We represent the City in redevelopment and affordable housing matters.

The existing relationships that Goldfarb & Lipman have with each of you could create a potential conflict of interest as discussed below.

B. Consequences of Joint Representation

As you are aware, the interests and objectives of each of you on certain issues related to the Development are, or may become inconsistent with one another. Therefore, it is important that you thoroughly understand the consequences of joint representation.

In representing both of you in this Development, Goldfarb & Lipman will strive to provide legal services which are equally beneficial to both the County and the City. In other words, rather than vigorously asserting each of your respective interest in the Development, we will strive to reach agreements on matters that are mutually beneficial to both clients.

At this point, we feel that we can competently represent both the County and the City. There are, however, some consequences of joint representation that the County and the City should consider, and for which the advice of independent legal counsel should be sought.

1. No Secrets. First, Goldfarb & Lipman cannot maintain any secrets between the County and the City in connection with the Development. In other

Sharon Anderson
Teri House
June 4, 2018
Page 4

words, anything disclosed by the County and the City to Goldfarb & Lipman that is relevant to the representation must be disclosed to the other party. Therefore, if one party does not wish something relevant disclosed to the other party, then that party should not disclose it to us.

Additionally, in fulfilling our obligations to provide competent legal services, we may have to disclose to each party any information that we have obtained from any party in this transaction or any other transactions which may be relevant or material to this joint representation. Notwithstanding the foregoing, we would be required to obtain your prior written consent before we could make any such disclosures. At this point, we are unaware of any information that would require such disclosure.

2. Adverse Interest. Second, if any actual adverse interest develops between the County and the City, then we will have to determine whether we can continue our representation. If we decide that the interests are too divergent and that we can no longer provide competent legal representation to both of the respective interests, then we will have to withdraw from representing either party in connection with the Development.

3. Attorney-Client Privilege. Finally, with joint representation, the County and the City waive the attorney-client privilege between themselves in connection with this Development. This means that in the event of litigation between the County and the City in connection with the Development, Goldfarb & Lipman could be compelled to testify against a party. Both parties would, however, maintain the attorney-client privilege against third parties who might sue them.

IV. Consents

You should thoroughly review and consider the matters discussed in this letter, and perhaps seek independent counsel before providing your consent. If, after such review, each of you consents to Goldfarb & Lipman representing the County and the City in the manner outlined above, please sign and return the attached consent form acknowledging that you have been advised of (i) Goldfarb & Lipman's past and continuing relationships with the County and the City, (ii) the potential conflict of interest that Goldfarb & Lipman may have in its joint representation of the County and the City in connection with the Development, and (iii) the consequences of such joint representation; and that you nevertheless, want to consent to our joint representation of the County and the City in connection with the Development.

Sharon Anderson
Teri House
June 4, 2018
Page 5

If you have any questions regarding this letter, please call before signing and returning the enclosed copy of this letter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Isabel Brown", with a horizontal line extending to the right.

ISABEL BROWN

A handwritten signature in cursive script, appearing to read "Karen Tiedemann", with a horizontal line extending to the right.

KAREN TIEDEMANN

CONSENT

Goldfarb & Lipman LLP ("Goldfarb & Lipman") has explained to each of the undersigned the potential conflicts of interest that could arise from Goldfarb & Lipman's representation of the County and the City in connection with the Pinecrest Apartments and Terrace Glen Apartments developments (collectively, the "Development"). We acknowledge the disclosure of: (i) Goldfarb & Lipman's past and continuing relationships with the County and the City; (ii) the potential conflict of interest that Goldfarb & Lipman may have in its joint representation of the County and the City in connection with the Development; and (iii) the consequences of such joint representation. The undersigned nevertheless consent to Goldfarb & Lipman's representation of the County and the City in connection with the Development.

We understand that we have the right to seek independent counsel before signing this consent or at any future time.

Dated: _____

COUNTY OF CONTRA COSTA, a political
subdivision of the State of California

By: _____
Sharon Anderson, County Counsel

Dated: _____

CITY OF ANTIOCH, a municipal corporation

By: _____

Name: _____

Its: _____