



Contra  
Costa  
County

To: Board of Supervisors  
From: Sharon L. Anderson, County Counsel  
Date: September 13, 2016

Subject: APPROVE AND AUTHORIZE CONFLICT WAIVER WITH GOLDFARB & LIPMAN LLP

---

**RECOMMENDATION(S):**

APPROVE and AUTHORIZE County Counsel or her designee to execute on behalf of the County a form acknowledging a conflict of interest and consent to Goldfarb and Lipman LLP representing the County in connection with a loan of approximately \$2.1 million of Home Investment Partnership Act (HOME) funds and Community Development Block Grant funds (CDBG) funds to the developer of Hana Gardens, an affordable housing project in El Cerrito.

**FISCAL IMPACT:**

There is no General Fund impact. HOME and CDBG funds are provided to the County on a formula allocation basis through the U.S. Department of Housing and Urban Development (HUD).

**BACKGROUND:**

The County is an existing client of Goldfarb. Goldfarb represents the County on various legal issues related to redevelopment dissolution, new development financed by the County, and the preparation of legal documents for County-funded housing programs. Because Goldfarb's concentration of work is in affordable housing, it is not uncommon for the firm

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD COMMITTEE

---

Action of Board On: **09/13/2016** ☒ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

**VOTE OF SUPERVISORS**

AYE: John Gioia, District I Supervisor  
Candace Andersen, District II Supervisor  
Mary N. Piepho, District III Supervisor  
Karen Mitchoff, District IV Supervisor  
Federal D. Glover, District V Supervisor

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: September 13, 2016

David Twa, County Administrator and Clerk of the Board of Supervisors

By: June McHuen, Deputy

Contact: Kate Andrus, (925)  
335-1800

cc: Kara Douglas

to have an attorney-client relationship with more than one party to a complicated housing transaction.

## BACKGROUND: (CONT'D)

Attached is a letter from Goldfarb that requests that the County acknowledge and waive the conflicts that exist in a transaction in which Goldfarb will represent the County and the City of El Cerrito (City), both of which are lending money to a limited partnership affiliate of Eden Housing, Inc. (Developer), the developer of Hana Gardens, a 63-unit affordable housing project in El Cerrito (the Development). The letter sets forth the attorney-client relationships that could affect the firm's representation of both the County and the City and states that different attorneys within Goldfarb will represent the County and the City. The proposed consent to Goldfarb's dual role is attached to Goldfarb's letter.

In the proposed transaction, the County will loan \$1,475,000 of HOME funds and \$625,000 of CDBG funds, for a total loan of \$2,100,000 (the County Loan) to the Developer. Proceeds from the loan will be used to construct the Development. The County loan will have a 55-year term and will be secured by a deed of trust.

The City is lending \$300,000 to the Developer (the City Loan) to construct the Development. The City Loan has a 55-year term and is secured by a deed of trust. Goldfarb is representing the City in the transaction. In conjunction with the County Loan, the County and the City will enter into an intercreditor agreement that will result in the County's deed of trust and the deed of trust that secures the City Loan to have equal lien priority. The intercreditor agreement will also set forth the terms under which the County and the City will share a portion of the cash generated by the Development that will be used to reduce the outstanding principal balances of the County Loan and the City Loan. The County Counsel's office will review all documents and will be involved in any negotiations of the intercreditor agreement.

Staff for the Conservation and Development Department have advised the County Counsel's office that they have selected Goldfarb to draft the loan documents to be used by the County when the County makes the loan to the Developer despite the conflict, due to Goldfarb's familiarity with the Hana Gardens project.

## CONSEQUENCE OF NEGATIVE ACTION:

Goldfarb would not be able to continue to represent either the County or the City in connection with the project. The result would likely be increased costs for the County and a delay in the completion of the Development.

## CHILDREN'S IMPACT STATEMENT:

N.A.

## ATTACHMENTS

Goldfarb Letter