



**Contra
Costa
County**

To: Board of Supervisors
From: Sharon L. Anderson, County Counsel
Date: December 18, 2018

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

RECOMMENDATION(S):

APPROVE and AUTHORIZE the County Counsel, or designee, to execute on behalf of the County a conflict waiver acknowledging a conflict of interest and consenting to Goldfarb & Lipman LLP representing the City of Hercules (City), and the Hercules Successor Agency, which is the successor to the Hercules Redevelopment Agency (Successor Agency) in the City's and the Successor Agency's litigation against the California Department of Finance and the Contra Costa County Auditor-Controller.

FISCAL IMPACT:

There is no financial impact.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY
ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **12/18/2018** ☒ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor
Candace Andersen, District II Supervisor
Diane Burgis, 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: December 18, 2018

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

Contact: Kate Andrus, Deputy
County Counsel, (925) 335-1824

By: Stephanie Mello, Deputy

BACKGROUND:

The County is an existing client of Goldfarb & Lipman LLP (Goldfarb). Goldfarb represents the County in connection with affordable housing projects. The City of Hercules (the City) and the Hercules Successor Agency, which is the successor to the Hercules Redevelopment Agency (Successor Agency), are also existing clients of Goldfarb. Goldfarb serves the City as the City Attorney and as legal counsel to the Successor Agency.

Goldfarb has been asked by the City and the Successor Agency to file a petition for a writ of mandate against the California Department of Finance. The dispute concerns whether an agreement between the City and the Successor Agency is an enforceable obligation within the meaning of redevelopment dissolution law. The petition will seek an order that will affect the distribution of former redevelopment funds. The County Auditor-Controller is responsible for the actual distribution of former redevelopment funds to the various taxing entities. For that reason, the County Auditor-Controller will be named as a nominal respondent to the action. As a nominal respondent, the County Auditor-Controller will not have any obligation to take a position in the matter but will have to comply with any orders issued by the court.

In the absence of the informed written consent of each client, the California Rules of Professional Conduct prohibit an attorney from representing a client in one matter and at the same time representing a second client in a separate matter if the second client's interests in the separate matter are adverse to those of the first client (Rule 3-310(C)(3)).

In this instance, the representation Goldfarb provides to the County is unrelated to the representation it provides to the City and the Successor Agency.

Attached is a letter from Goldfarb that describes the conflict waiver request in more detail.

CONSEQUENCE OF NEGATIVE ACTION:

If the conflict waiver is not granted, Goldfarb will continue to represent the County in connection with unrelated affordable housing projects and will continue to act as the City Attorney for the City of Hercules and as legal counsel to the Successor Agency, but will be unable to advise the City or the Successor Agency with respect to the proposed writ of mandate against the California Department of Finance.

ATTACHMENTS

Attachment A