



A Tradition of Stewardship
A Commitment to Service

Agenda Date: 1/24/2017

Agenda Placement: 6P

NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

TO: Board of Supervisors

FROM: Minh Tran - County Counsel
County Counsel

REPORT BY: Nancy Johnson, Housing and Community Development Program Manager - 707-299-1352

SUBJECT: Waiver of conflict of Interest for Goldfarb and Lipman regarding Satellite Affordable Housing's Affordable Housing's Manzanita project in Napa

RECOMMENDATION

County Counsel requests approval of and authorization for the Chair to sign a consent form waiving a potential conflict of interest and agreeing to limited joint representation in connection with Goldfarb & Lipman LLP's representation of the County in drafting loan documents for County funds provided to the proposed Manzanita affordable senior housing project located on North Soscol Road in the City of Napa.

EXECUTIVE SUMMARY

Satellite Affordable Housing Associates (SAHA) is proposing to construct a 51-unit affordable housing development called Manzanita Apartments on North Soscol Road in the City of Napa, on a surplus piece of land created when Soscol Ave. was realigned and just south of the Montrachet apartments. The affordable housing units will be made available to low income residents making at or less than 60% of county median income. SAHA intends to request a reservation of \$2 million from the Board to assist in financing the project. This request for reservation of funds will return to the Board for its consideration on a future agenda.

Goldfarb & Lipman LLP assists the County in the drafting of loan documents in connection with loans made from the Affordable Housing Fund and other County sources for affordable housing projects. Goldfarb and Lipman has an existing attorney-client relationship with SAHA, and so a potential conflict of interest exists. The State Bar rules and Rules of Professional Conduct require Goldfarb & Lipman to obtain a consent/waiver of potential conflict of interest from the County and SAHA. SAHA is represented by counsel other than Goldfarb & Lipman in connection with all of the financing for the project. However, Goldfarb & Lipman prepares construction contracts for SAHA and advises SAHA regarding management and services issues. Because the County's loan documents contain management standards, Goldfarb & Lipman is requesting County approval of limited joint representation confined to management and service issues.

Staff does not believe there are any actual conflicts of interest and recommends that the County grant the Goldfarb & Lipman firm a waiver of any potential conflict of interest and approve limited joint representation that may result from the drafting of loan documents on the Manzanita Apartments Project.

FISCAL IMPACT

Is there a Fiscal Impact? No

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: The proposed action does not have the potential to create a physical change in the environment, nor a reasonably foreseeable indirect physical change, and is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

BACKGROUND AND DISCUSSION

Goldfarb & Lipman assists the County in the drafting of loan documents in connection with loans made from the Affordable Housing Fund and other County sources for affordable housing projects. Goldfarb & Lipman has an existing attorney-client relationship with SAHA, and a potential conflict of interest exists. The State Bar and Rules of Professional Conduct require Goldfarb & Lipman to obtain a consent/waiver of potential conflict of interest from the County and SAHA. SAHA is represented by counsel other than Goldfarb & Lipman in connection with all of the financing for the project. However, Goldfarb & Lipman prepares construction contracts for SAHA and advises SAHA regarding management and services issues. Because the County's loan documents contain management standards, Goldfarb & Lipman is requesting County approval of limited joint representation confined to management and service issues.

SAHA is requesting a reservation of funds totaling \$2,000,000 from the County in order to be competitive for HOME funds through the Department of Housing and Community Development (HCD). Goldfarb & Lipman has prepared County loan document for the affordable housing projects supported by County funds and is familiar with the County's underwriting standards and other policies. If the proposed waiver and joint representation are approved by the County, and if the Board approves SAHA's request for funds, Goldfarb & Lipman would represent the County in drafting all loan related documents for SAHA's project in Napa. SAHA has not submitted a full application for funding, so the action is reserve the funds and not take an action on the project itself. When SAHA submits an application, staff will follow the guidelines adopted by the Board, and complete a full assessment of the project including an underwriting report from LeSar Development Consultants.

Staff does not believe there are any actual conflicts of interest and recommends that the County grant the Goldfarb & Lipman firm a waiver of any potential conflict of interest and approve limited joint representation that may result from the drafting of loan documents on the Napa project. SAHA has approved the conflict waiver and joint representation

SUPPORTING DOCUMENTS

A . Project description

CEO Recommendation: Approve

Reviewed By: Carlos Solorio