



CITY OF GLENDALE, CALIFORNIA REPORT TO THE CITY COUNCIL

AGENDA ITEM

Report: Request for Conflict of Interest Waiver in Legal Representation by Burke, Williams & Sorensen, LLP Related to Representation of Burbank-Glendale-Pasadena Regional Housing Trust.

1. Motion Authorizing the City Attorney to Execute Conflict of Interest Waiver.

COUNCIL ACTION

Item Type: Consent Item

Approved for September 10, 2024 **calendar**

EXECUTIVE SUMMARY

The Council's authorization is being sought for the City Attorney, or his designee, to enter into and execute a Conflict of Interest Waiver letter with the law firm of Burke, Williams & Sorensen, LLP ("BWS") for the representation of the City in matters in ongoing legal matters while also representing the Burbank-Glendale-Pasadena Regional Housing Trust ("Trust") – of which the City is a member – including on grant agreements between the Trust and the City of Glendale. The Conflict of Interest Waiver is to allow BWS to represent the Trust in matters that may affect Glendale.

RECOMMENDATION

That the City Council authorize the City Attorney to waive the conflict set forth herein.

ANALYSIS

BWS currently represents the City in two litigation matters, Casa Green v. City of Glendale, et al. and 238 Serrano Properties LLC v. State of California et al. (“Litigation Matters”), two cases related to eviction moratoria imposed by the State, County, and many municipalities, including Glendale, in response to the COVID crisis.

BWS has also been retained by the recently-formed Trust to provide general advice and guidance. At the time of the Trust’s retention of BWS, the general nature of the work was advisory in nature to the Trust Board and did not involve any specific Glendale matters. The Trust has recently asked BWS to assist the Trust on grant agreement matters that will include agreements with the City of Glendale.

Rule 1.7 of the State Bar of California’s Rules of Professional Conduct (“Rule 1.7”) imposes an ethical duty upon BWS to inform the City that the firm also represents a client (in this case the Trust) which may have interests which are adverse to the City and obtain the City’s informed consent to continue representation of both parties. Rule 1.7 permits attorneys to represent multiple clients with current or future adverse interests only after receiving informed written consent of each client, provided the attorney: (1) reasonably believes that the attorney will be able to provide competent and diligent representation to each affected client; (2) the representation is not prohibited by law; and (3) the representation does not involve the assertion of a claim by one client against another client represented by the attorney in the same litigation or other proceeding before a tribunal.

Given BWS’ expanded scope of work with the Trust, BWS has submitted a proposed “Conflict Waiver Letter” (Exhibit 1) that complies with Rule 1.7 and seeks the City’s informed consent. As noted, the Litigation Matters in which BWS provides legal representation to the City are and will be unrelated to the matters to which BWS advises the Trust.

Based on its review of the Conflict Waiver Letter and its knowledge of the Trust and the work BWS currently performs for the City, the City Attorney’s Office is of the opinion that BWS’s representation of the Trust on grant agreements and related matters will not compromise by BWS’s representation of the City in the Litigation Matters, as BWS’s representation of the two entities is unrelated to one another. BWS has advised that should a future scenario arise where the interests of the City and the Trust become adverse or if BWS obtains any confidential information from the City or the Trust that would make its continued representation of the City and Trust untenable or compromise their independent judgment or loyalty to the City, BWS would work with the administrative team of the Trust to find separate counsel on any adverse matter.

For the reasons stated above, it is the position of the City Attorney’s Office that BWS’s representation of the Trust will not compromise the firm’s representation of the City in the

Litigation Matters and that the City may provide the informed conflict waiver as requested by BWS.

STAKEHOLDERS/OUTREACH

Not applicable.

FISCAL IMPACT

There is no fiscal impact associated with the execution of the Conflict Waiver.

ENVIRONMENTAL REVIEW (CEQA/NEPA)

The action requested herein has no potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, and as such is not a project subject to the requirements of the California Environmental Quality Act (CEQA) 14 Cal. Code Regs. Section 15378

CAMPAIGN DISCLOSURE

Not applicable.

ALTERNATIVES TO STAFF RECOMMENDATION

1. Not authorize the execution of the Conflict of Interest Waiver as requested herein.
2. Council's consideration of any other alternatives not proposed by staff.

ADMINISTRATIVE ACTION

Submitted by:

Michael J. Garcia, City Attorney

Prepared by:

Michael J. Garcia, City Attorney

Approved by:

Roubik R. Golanian, P.E., City Manager

EXHIBITS/ATTACHMENTS

Exhibit 1 – Conflict Waiver Letter (Burke, Williams & Sorenesen)