



CITY OF GLENDALE, CALIFORNIA REPORT TO THE CITY COUNCIL

AGENDA ITEM

Report: Request for Conflict of interest Waiver in Legal Representation by Best Best & Krieger LLP.

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

COUNCIL ACTION

Item Type: Consent Item

Approved for September 17, 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 Best Best & Krieger LLP ("BBK") for the representation of the City in matters, including the ongoing representation of the City on matters involving the Biogas Renewable Generation Project ("Biogas Project"). The Conflict of Interest Waiver is for BBK to assist the City with legal representation relating to permitting options for the potential installation of a trim flare at the Scholl Canyon Landfill ("Trim Flare Matter").

RECOMMENDATION

Staff recommends that the City Council authorize the City Attorney to waive the conflict set forth herein.

ANALYSIS

The City has a legal retainer agreement with BBK to assist with environmental and permitting matters related to the Biogas Project. BBK also represented the City in the litigation challenging the Biogas Project before that matter settled. The City is considering its options relating to the installation of a trim flare at the Scholl Canyon Landfill and would like BBK to provide legal representation with permitting options in the Trim Flare Matter.

BBK has attorneys who represent the Los Angeles County Sanitation Districts on matters other than the Biogas Project and Trim Flare Matter. Rule 1.7 of the State Bar of California's Rules of Professional Conduct ("Rule 1.7") imposes an ethical duty upon BBK to inform the City that the firm also represents a client (in this case the Los Angeles County Sanitation District) 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.

BBK has submitted a proposed "Conflict Waiver Letter" (Exhibit 1) that complies with Rule 1.7 and seeks the City's informed consent. The Conflict Waiver letter notifies the City that in addition to representing the City, BBK currently represents the Los Angeles Sanitation District as their special counsel in various matters including, but not limited to, federal advocacy and public finance. As noted, all of the matters in which BBK provides legal representation to the Los Angeles Sanitation District are unrelated to the Trim Flare Matter or any of the legal representation provided thus far and to be provided by BBK to the City.

Based on its review of the Conflict Waiver Letter and its knowledge of the Biogas Project and Trim Flare Matter, the City Attorney's Office is of the opinion that BBK's representation of Los Angeles County Sanitation District will not compromise by BBK's representation of the City in the Trim Flare Matter, as BBK's representation of the two entities is unrelated to one another. Additionally, BBK has explicitly warranted that it will maintain an ethical wall between the attorneys representing the two parties and not disclose any confidential information by and between the parties. BBK has advised that should a future scenario arise that would compromise their independent judgment or loyalty to the City, BBK would not represent either the Los Angeles Sanitation District or the City in any adverse proceedings and would terminate their representation with both parties.

For the reasons stated above, it is the position of the City Attorney's Office that BBK's representation of the Los Angeles Sanitation District will not compromise the firm's representation of the City and the City may provide the informed conflict waiver as requested by BBK.

STAKEHOLDERS/OUTREACH

Not applicable.

FISCAL IMPACT

There is no fiscal impact associated with the execution of the Conflict Waiver for continued representation of the City by BBK in the Trim Flare Matter.

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:

Dorine Martirosian, Principal Assistant City Attorney

Approved by:

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

EXHIBITS/ATTACHMENTS

Exhibit 1 – Conflict Waiver Letter (Los Angeles County Sanitation District) Dated August 15, 2024