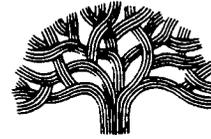


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OAKLAND

15 APR 23 PM 4:34

CITY OF OAKLAND



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May 5, 2015

HONORABLE CITY COUNCIL
Oakland, California

President Gibson McElhaney and Members of the City Council:

SUBJECT: RESOLUTION AUTHORIZING WAIVER OF ANY POTENTIAL CONFLICT OF INTEREST THAT THE LAW FIRM OF COBLENTZ PATCH DUFFY & BASS, LLP MAY HAVE AS A RESULT OF PROVIDING ADVICE AND COUNSEL TO THE LESSEE OF THE LAKE CHALET RESTAURANT REGARDING LESSEE'S LEASE NEGOTIATIONS WITH THE CITY OF OAKLAND, AND PERMITTING COBLENTZ TO PROVIDE ADVICE AND COUNSEL TO THE CITY OF OAKLAND REGARDING THE COLISEUM CITY PROJECT

I. Introduction

The purpose of this report is to request that the Council waive any potential conflict of interest that the City's proposed Coliseum City project outside counsel, Coblenz Patch Duffy & Bass, LLP ("law firm"), may have due to its representation of the Lake Chalet restaurant tenant ("Lake Chalet"). Lake Chalet leases land from the City to operate its business at Lake Merritt. The City Attorney's Office wishes to retain the law firm to provide specialized advice regarding the Coliseum City project.

There is no legal conflict of interest because there is no connection between the firm's provision of advice to the City, and the firm's representation of Lake Chalet. However, the City Attorney's Office is requesting that the Council authorize the waiver because there is a remote possibility that an actual conflict could arise. The City Attorney requests that the Council grant

the waiver because the law firm has specialized expertise in complex real estate projects that include sports team stadiums.

II. DISCUSSION.

The law firm represented Lake Chalet in negotiating its ground lease with the City to operate a restaurant at Lake Merritt. The City Attorney's office is asking the Council to waive any potential conflict of interest the law firm may have because it has previously advised Lake Chalet and may continue to represent the restaurant.

There is no legal conflict of interest between the firm's advice to Lake Chalet and the firm's proposed legal advice to the City on the Coliseum City project because the matters are unrelated.

As noted above, the City Attorney's office believes that such representation does not represent an actual conflict of interest. The law firm has agreed that if a potential **actual** conflict of interest arises (for example, Lake Chalet asks the law firm to sue the City regarding the restaurant lease), the law firm could **not** represent that client unless and until it sought approval from the City. If the City refused to consent and the law firm nonetheless wished to represent the client, the City could immediately terminate the law firm's services to the City.

III. CONCLUSION

The City Attorney's Office recommends that the City waive the potential conflict of interest of the law firm because of its representation of Lake Chalet.

As discussed in this report, there is no legal conflict of interest between the law firm's provision of advice in those matters, and the firm's provision of specialized law advice to the City. If an actual potential conflict arises, the City would have the option of terminating the law firm's services to the City.

Respectfully submitted,


BARBARA J. PARKER
City Attorney

Attorney Assigned:
Dianne M. Millner

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City Attorney's Office

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OAKLAND CITY COUNCIL

Resolution No. _____ C.M.S.

RESOLUTION AUTHORIZING WAIVER OF ANY POTENTIAL CONFLICT OF INTEREST THAT THE LAW FIRM OF COBLENTZ PATCH DUFFY & BASS, LLP MAY HAVE AS A RESULT OF PROVIDING ADVICE AND COUNSEL TO THE LESSEE OF THE LAKE CHALET RESTAURANT REGARDING LESSEE'S LEASE NEGOTIATIONS WITH THE CITY OF OAKLAND, AND PERMITTING COBLENTZ TO PROVIDE ADVICE AND COUNSEL TO THE CITY OF OAKLAND REGARDING THE COLISEUM CITY PROJECT

WHEREAS, the law firm of Coblentz Patch Duffy and Bass, LLC ("the law firm") has specialized expertise in representing clients in complex real estate projects, including projects that include professional sports stadiums; and

WHEREAS, the City currently is involved in negotiations for development of the Coliseum City project, a proposed major real estate mixed use project that may include professional sports stadiums; and

WHEREAS, provision of legal advice regarding mixed use sports stadium projects is a specialized area of law, and the City Attorney's office does not have an attorney trained this area; and

WHEREAS, the law firm represented the Lake Chalet Restaurant operators in negotiating a lease of City-owned land at Lake Merritt; and

WHEREAS, because the law firm represented and may continue to represent Lake Chalet Restaurant, the representation potentially raises a conflict of interest; and

WHEREAS, the law firm has agreed not to represent Lake Chalet Restaurant in a matter which raises an actual conflict of interest unless it first seeks the City's approval, and if the City doesn't approve, the City would have the option of immediately terminating the law firm's services to the City; now therefore be it

RESOLVED: That the City waives the law firm's potential conflict of interest that may arise because the law firm represents Lake Chalet Restaurant, and permits the law firm to provide advice and counsel to the City regarding the Coliseum City Project.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, CAMPBELL-WASHINGTON, GALLO, GUILLEN, KALB, KAPLAN, REID AND
PRESIDENT GIBSON MCELHANEY

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____

LATONDA SIMMONS
City Clerk and Clerk of the Council
of the City of Oakland, California