Legislation Text

File #: 2026-0874, **Version:** 1

To: Board of Directors of Sonoma County Agricultural Preservation and Open Space District
Department or Agency Name(s): County Counsel
Staff Name and Phone Number: Deputy County Counsel Lisa Pheatt, (707) 565-2421
Vote Requirement: Majority
Supervisorial District(s): Countywide

Title:
Shute, Mihaly & Weinberger LLP Conflict Waiver

Recommended Action:
Authorize the President of the Board to Execute a Limited Conflict Waiver

Executive Summary:
In May 2022, County Counsel retained the law firm of Shute, Mihaly & Weinberger LLP ("SMW") to assist Ag + Open Space with updating its template form of conservation easement for use in Ag + Open Space negotiations with landowners ("Template Matters"). SMW would like to represent the Petaluma River Park Foundation (the "Foundation") in connection with its creation of the Petaluma River Park. The Foundation anticipates receiving funding from Ag + Open Space and as a result will be subject to a conservation easement held by Ag + Open Space. The Foundation has asked SMW to assist it with any negotiations of the conservation easement that may be required ("Petaluma River Park Conservation Easement").

Although no one from the SMW team who was assigned to work on the Template Matters in 2022 will be working on the Petaluma River Park Conservation Easement, the Rules of Professional Conduct require that SMW obtain consent from Ag + Open Space to represent the Foundation in negotiations to finalize the Petaluma River Park Conservation Easement.

Discussion:
Shute, Mihaly & Weinberger LLP ("SMW") previously represented the Sonoma County Agricultural Preservation and Open Space District ("Ag + Open Space") in matters related to conservation easements, including drafting a template form of conservation easement for the District to use in negotiations with landowners ("Template Matters"). SMW would like to represent the Petaluma River Park Foundation (the "Foundation") in connection with its creation of the Petaluma River Park. The Foundation anticipates receiving funding from Ag + Open Space and, as a result, will be subject to a conservation easement held by Ag + Open Space. The Foundation has asked SMW to assist it with any negotiations of the conservation easement that may be required ("Petaluma River Park Conservation Easement").

Given the overlapping subject matter with SMW's past work for Ag + Open Space and its intended work for the Foundation on the Petaluma River Park Conservation Easement, it seems reasonable to assume that in the course of negotiating the business terms or other issues related to the Petaluma River Park Conservation Easement, the parties may take differing views on topics like restrictions on use of the property and

indemnifications, and may consider compromising their position on certain topics to secure an overall favorable agreement. SMW's prior advice to Ag + Open Space may affect Ag + Open Space's positions in the transaction.
Accordingly, SMW is requesting Ag + Open Space provide informed written consent to SMW's representation of the Foundation with regard to the Petaluma River Park Conservation Easement matter.

Given the limited nature of the requested conflict waiver, and the fact that SMW has erected an ethical screen that prohibits the attorneys who worked on the Easement Template Matters from working on the Petaluma River Park Conservation Easement matter, County Counsel recommends that your Board authorize the President to approve the requested conflict waiver.

Strategic Plan:
N/A

Was this item identified as an opportunity to apply the Racial Equity Toolkit?
No

Prior Board Actions:
None

FISCAL SUMMARY

Narrative Explanation of Fiscal Impacts:
There are no fiscal impacts associated with the requested action.

Narrative Explanation of Staffing Impacts (If Required):
None

Attachments:
Conflict Waiver

Related Items "On File" with the Clerk of the Board:
None