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RESOLUTION NO. 19-353

BOARD OF COUNTY COMMISSIONERS
COUNTY OF EL PASO, STATE OF COLORADO

**RESOLUTION APPROVING WAIVER OF CONFLICT OF INTEREST
REGARDING SHERMAN & HOWARD, LLC**

WHEREAS, pursuant to C.R.S. §§ 30-11-101(1), 30-11-103 and 30-11-107(1), the Board of County Commissioners of El Paso County, Colorado ("Board" or "County"), has the legislative authority to make all contracts and to settle all accounts of the County and to exercise such other and further powers as are conferred by law; and

WHEREAS, the law firm of Sherman & Howard, L.L.C. ("Sherman & Howard"), provides professional legal services to El Paso County on specific matters related to labor and employment; and

WHEREAS, Colorado College has requested representation by Sherman & Howard as counsel in regard to the issuance of bonds issued by the County and then to be sold to UMB, N.A., which is a matter that must be addressed with El Paso County; and

WHEREAS, Sherman & Howard's representation of Colorado College and its ongoing representation of El Paso County presents a concurrent conflict of interest for Sherman & Howard, which conflict can be waived with the informed consent of the parties; and

WHEREAS, the Board acknowledges receipt of the aforementioned information and believes it is appropriate to authorize a waiver of conflict of interest on behalf of El Paso County (See attached Exhibit A).

NOW, THEREFORE, BE IT RESOLVED, the Board of County Commissioners hereby approves the Waiver of Conflict of Interest dated September 9, 2019, regarding El Paso County and Colorado College pertaining to the law firm of Sherman & Howard, L.L.C.

BE IT FURTHER RESOLVED, that Mark Waller, Chair of the Board of County Commissioners, or Longinos Gonzalez, Jr., Vice Chair, be and is hereby appointed and authorized to execute the resolution approving this matter and all reasonable and necessary documents on behalf of the Board in order to complete the transaction described herein.

DONE THIS 24th day of September, 2019, at Colorado Springs, Colorado.

Chuck Broerman
09/25/2019 09:45:01 AM
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Rec \$0.00 Pages

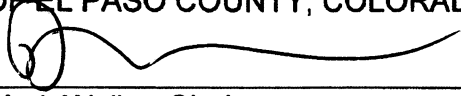
El Paso County, CO



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BOARD OF COUNTY COMMISSIONERS
OF EL PASO COUNTY, COLORADO

By: 
Mark Waller, Chair

SHERMAN & HOWARD

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Raymond M. Deeny
Sherman & Howard L.L.C.
Direct Dial Number: 719.448.4016
E-mail: rdeeney@shermanhoward.com

September 9, 2019

Sent via Email: DianaMay@elpasoco.com

Diana May
El Paso County Attorney
27 East Vermijo, Third Floor
Colorado Springs, Colorado 80903

Re: Request for Limited Waiver of Conflict of Interest

Dear Diana,

I am sending this letter to request a waiver of a concurrent conflict of interest under Rule 1.7 of the Colorado Rules of Professional Conduct because of the following representations:

(a) For some time, Sherman & Howard L.L.C. (the "Firm") has represented El Paso County (the "County") with regard to various labor and employment matters, as well as other issues that the County has brought to our attention. The County is a current client of the Firm.

(b) Also for some time, the Firm has represented Colorado College ("Colorado College") regarding various business and other matters. Colorado College is a current client of the Firm.

(c) Colorado College has recently requested that the Firm represent it as special counsel with regard to the issuance of bonds, issued by the County, then to be sold to UMB, N.A. Because the County is the issuer of the bonds, there is technical adversity between the parties, and the request presents a conflict of interest for the Firm due to our on-going representation of both parties in their respective matters.

Rule 1.7 of the Rules of Professional Conduct prohibits the Firm from representing or advising one client (Colorado College) in a manner that is adverse to another client (the County), unless both clients provide informed consent to the representation, confirmed in writing. Accordingly, we ask that the County agree to waive any conflict with respect to the Firm's representation of Colorado College as outlined herein. If the County agrees to grant the requested waiver, representation by the Firm of the County on its current and future matters that are unrelated



Diana May
September 9, 2019
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to the work we do for Colorado College will not be grounds to request or obtain a disqualification of the Firm.

In deciding whether or not to consent, you should consider how our representation of Colorado College could or might affect the County. In so doing, the County should consider whether the arrangement that I have outlined above could or might affect the zealotness with which the Firm represents it. Similarly, the County should consider whether our representation of clients adverse to it would place the Firm in a position to use your confidences or secrets against it. To be clear, we do not intend to disclose any client confidential information to any other client, and the Rules of Professional Conduct by which we are bound prevent us from disclosing such client confidential information.

The Rules of Professional Conduct also require that I advise the County of the alternatives that it has to granting the waiver that we are requesting. The County has the option of refusing to grant the waiver, in which case Colorado College would be required to seek other counsel.

A waiver of a conflict of interest implicates legal issues for you, including issues as to the nature and scope of the waivers and their potential significance for you. Sherman & Howard is not disinterested as to such issues, and therefore cannot advise you on them.

After you have reviewed this, and assuming that you agree to waive the potential conflict of interest involved, I ask that you sign below confirming the waiver. I would be glad to respond to any questions or issues you may have with these matters. I appreciate your cooperation in this matter.

Sincerely,



Raymond M. Deeny

RMD/mn

I have reviewed this letter. El Paso County agrees to waive the conflict as describe and consent to the representation on the terms outlined.

EL PASO COUNTY

By: _____
DIANA MAY
El Paso County Attorney

Date: _____