

AGENDA MATERIAL

Aliza Barraza

DATE 9/5/23 ITEM NO. RA 28 and
29

From: Terra R. <[REDACTED]>
Sent: Monday, September 4, 2023 10:49 AM
To: District1; District2; District3; District4; District5; COB_mail
Subject: Save \$, vote NO on agenda items 28 and 29

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Good morning Supervisors,

Regarding agenda items 28 and 29 at tomorrow's meeting, I believe it is your duty to save your constituents / taxpayers money and not wastefully spending it.

While I do agree that a lobbyist would be beneficial to the overall financial health of the county, spending \$800,000 to contract with an outside agency for one appears to be reckless.

There is a more cost-effective option at your disposal: Hire a permanent lobbyist! Please consider the cost savings this option provides.

Please vote NO on agenda items 28 and 29.

Thank you for taking the time to read and consider my message, Terra Radliff



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Aliza Barraza

From: [REDACTED]
Sent: Monday, September 4, 2023 2:42 PM
To: Adelita Grijalva; Rex Scott; Matt Heinz; Sharon Bronson; Steve Christy
Cc: COB_mail
Subject: 9/5/2023 Pima BOS agenda items 28 and 29, Conflict of Interest filed?

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Please add this comment into official records.

RE: Agenda item 28 & 29

Pima County Lobbyist, Racy and Associates Inc., would receive \$200,000 for State and \$200,000 for Federal Lobbying per year for the next two years. The question remains, has Racy and Associates filed proper conflict of Interest disclosure? Specifically, since Racy is/was also a lobbyist and represented Don Diamond. Is that still the case?

See headline below regarding Bid-Rigging in 2018. Thank you for clarifying.

<https://arizonadailyindependent.com/2018/10/07/alleged-bid-rigging-involves-pima-county-management-lobbyist/>

Alleged Bid-Rigging Involves Pima County Management, Lobbyist

October 7, 2018 by Albert Vetere Lannon

Recently discovered emails, appear to show Pima County officials engaged in the illegal activity known as "bid rigging" in favor of principals of Diamond Ventures or relatives of real estate developer Don Diamond.

Bid rigging is an illegal practice in which competing parties collude to choose the winner of a bidding process, which involves a formal Request For Proposal (RFP). **Collusion** can include providing the involved parties with information about the procurement that others competitors could not have access to, and or crafting a RFP in such a way as to unfairly benefit a party.

According to Investopedia, "The Sherman Antitrust Act of 1890 makes bid rigging illegal under U.S. antitrust law. Bid rigging is a felony in the U.S. punishable by fines, imprisonment, or both."

In the case of the bid rigging surrounding the lease of a Pima County owned-property known as Old Tucson Studios, it appears that a new RFP was being crafted to grant principals in or otherwise involved with Don Diamond and Diamond Ventures "to veto the RFP if OTS (Old Tucson Studios) doesn't win the bid," according to emails to and from County employees.

The parties involved in the transaction and emails are as follows:

Michael Racy: Racy, a member of the Arizona Bar Association, held a \$300,000 annual contract with Pima County for lobbying services. **Racy is also a lobbyist for Diamond Ventures. It is unclear if Racy has ever declared a conflict in the matter of his two clients with**

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presumably adverse interests.

Neil J. Konigsberg: Manager, Pima County Real Property Services

Tom Moulton: Director for Pima County Attractions and Tourism (Employment terminated)

Diane Frisch: Director of Attractions and Tourism for Pima County

Tobin Rosen: Pima County Attorney

Regina Nassen: Pima County Attorney

Helaine Levy: Daughter of Don Diamond and manager of Old Tucson Studios

Terry Verhage: Old Tucson Studios

Brian Deatherage: Diamond Ventures

Priscilla Storm: Diamond Ventures, Vice-president

The alleged bid rigging process first appeared in an email dated December 2016.

In that email, Jan Leshar discusses with Michael Racy the “minimum qualifications for the bidder” in the planned RFP process. Given that Old Tucson Studios is expected to be a bidder in that process any discussion of the RFP by County officials with Old Tucson Studio officials should have been avoided.

Given that the principals arrange to give Old Tucson Studios a “veto” in the RFP process elevates the entire transaction to one that is devoid of any appearance of legality.

From Neil Konigsberg

Sent: Friday, December 16, 2016 3:14 PM

To: Tom Moulton; Tobin Rosen

Cc: Jan Leshar

Subject: Old Tucson RFP

Attachments: Old Tucson RFP 12-16-16 njk.docx

Based on our conversations I have put together and attached a draft of the basic terms of the RFP, including a list of minimum qualifications for the bidder.

I saw Michael Racy on Tuesday and he suggested a meeting with the principals of Old Tucson to discuss how we proceed with the RFP. Let me know if you would like me to assist with coordinating that. Thanks

Neil J. Konigsberg, Manager
Pima County Real Property Services
Neil.konigsberg@pima.gov
520-724-6582

What is most striking about the email, are the list of requirements outlined in the attachment.

It is almost as if they were crafted to describe the Diamond-controlled venture:

Lease Terms

- Use of property as a historic/cultural attraction
- Lease rate: Minimum 90% of appraised value
- Lease term: 25 years plus option not to exceed 25 years
- Lease commences 60 days after execution by all parties
- All improvements belong to Pima County
- Any special events outside normal scope of business requires prior written approval of County, at its sole discretion
- Tenant pays all costs of operation, including utilities and maintenance of Premises
- Premises accepted “As Is”
- Tenant to provide insurance as required by County risk management

- Assignment of lease requires prior approval of County Board of Supervisors
- Bidders package will include a draft lease

Minimum Qualifications for Bidder

- At least 5 years of experience as the principal operator of at least one successful public attraction of similar size and scope to the proposed project. Current or previous operation of a Historic/Cultural attraction is desirable.
- Must have sufficient capital to operate the project and provide evidence of access to funds for working capital
- Submit a plan for use of the Premises and for capital improvements to the Premises, and demonstrates access to funds for capital improvements, including rehabilitation and restoration of the Premises

Nearly a year later, the negotiations continued:

From: Jan Leshner
Sent: Friday, December 1, 2017 12:30 PM
To: Neil Konigsberg; Tobin Rosen; Diane Frisch
Cc: Priscilla Storm; Racy, Michael
Subject: Old Tucson Studios

Neil and Tobin –

Old Tucson Studios (OTS) is interested in renewing discussions regarding a new lease. As you may recall, the current lease will end in 2023 and the OTS management feels that they need a longer commitment in order to invest in the facility. They are at the end of their second 25-year lease so it can't be renewed.

Prior to the conduct of the necessary appraisal, it seems appropriate to reach consensus on the inventory-what belongs to Pima County and what belongs to OTS. Diane and I met this morning with OTS representatives Priscilla Storm and Michael Racy and I said I thought this might be a simple exercise, but that the County side of those conversations would be led by the two of you. OTS will let us know who will be the appropriate points of contact from OTS.

As I recall the process following a review of the inventory, Real Property can, I believe, move forward with an appraisal. When the appraisal is complete, the lease will be drafted and the notice of action and the terms of the lease can be advertised for four (4) consecutive weeks. The auction is then held and the lease can go to the Board of Supervisors for approval.

Please let me know if you have questions or require additional information. As soon as I know we have started the process of discussion regarding the inventory, I will develop a draft timeline for your review and consideration. Our hope is to get this to the board no later than third quarter of 2018.

Jan Leshner
 Chief Deputy County Administrator
 130 W. Congress, 10th Floor
 Tucson, Arizona 85701
 Direct – (520) 724-8977
 Cell – (520) 247-6477

From: Neil Konigsberg
Sent: Friday, December 01, 2017 2:55 PM

To: Tobin Rosen; Regina Nassen
Subject FW: Old Tucson Studios

Tobin and Regina: the last time we went through this with Old Tucson, we asked for an amendment to lease first, so that we were not doing an RFP on property subject to an existing lease, **which allows Old Tucson to veto the RFP if OTS doesn't win the bid.** [ADI emphasis added]

Has anything changed on this from your point of view?

Neil

Neil J. Konigsberg, Manager
Pima County Real Property Services
Neil.konigsberg@pima.gov
520-724-6582

From: Tobin Rosen
Sent: Monday, December 4, 2017 10:42 AM
To: Neil Konigsberg; Regina Nassen
Subject RE: Old Tucson Studios

It seems to me that we would have this amendment in place before we could go out for a new lease on the property, **for the reason you have stated.** [ADI emphasis added]

From: Neil Konigsberg
Sent: Monday, December 4, 2017 10:50 AM
To: Jan Leshner
Cc: Tobin Rosen; Regina Nassen
Subject FW: Old Tucson Studios

Jan-previously we decided to enter into an amendment to the lease (draft attached) before doing an RFP or going to bid, so that the County was not going out to bid with Old Tucson having a right to veto the RFP if it isn't the prevailing party. Has that changed?

Neil J. Konigsberg, Manager
Pima County Real Property Services
Neil.konigsberg@pima.gov
520-724-6582

From: Jan Leshner
Sent: Tuesday, December 5, 2017 10:29 AM
To: Storm, Priscilla; Racy, Michael
Cc: Neil Konigsberg; Tobin Rosen; Diane Frisch
Subject Old Tucson Studios

Priscilla & Michael –

I indicated when we met that the first step in the consideration of a new lease between Pima County and Old Tucson Studios would be a conversation regarding inventory. I erred in that assessment. The first step would be to amend the current lease to state that the current lease terminates thirty days following the execution of a new lease by the County or 12/31/23.

To accomplish this first goal, we can amend the attached proposed amendment to name Diana Frisch as the Director of Attractions and Tourism and process for Board of Supervisors consideration.

If I hear from you by this Friday, December 8 and you have no objections, we can make the December 19 Board of Supervisors Agenda, which is the last Board meeting of 2017.

Thank you,
Jan Leshner
Chief Deputy County Administrator
130 W. Congress, 10th Floor
Tucson, Arizona 85701
Direct – (520) 724-8977
Cell – (520) 247-6477

From: Priscilla Storm
Sent: Tuesday, December 5, 2017 10:51 AM
To: Jan Leshner; Racy Michael
Cc: Neil Konigsberg; Tobin Rosen; Diane Frisch; Terry Verhage; Brian Deatherage; Helaine Levy
Subject: RE: Old Tucson Studios

I have some comments and questions on the attached draft form of the First Amendment to Amended and Restated Lease. Some are issues we have discussed, but are not reflected in the draft, others might be new. Would you like us to talk to Neil and Tobin directly?
How would you like to proceed?

From: Jan Leshner
Sent: Tuesday, December 5, 2017 11:12 AM
To: Storm, Priscilla; Racy, Michael
Cc: Neil Konigsberg; Tobin Rosen; Diane Frisch; Terry Verhage; Brian Deatherage; Helaine Levy
Subject: Old Tucson Studios

Yes, please work directly with Neil & Tobin.

It would be helpful if you could provide them with a redline of your proposed changes.

Thanks

From: Jan Leshner
Sent: Saturday, December 9, 2017 9:49 AM
To: Neil Konigsberg
Cc: Tobin Rosen; Regina Nassen
Subject: RE: Old Tucson Studios

Neil –

Did you ever hear directly from Priscilla or her team?

I told her that this was a simple amendment and shouldn't require a great deal of conversation

Thanks

From: Neil Konigsberg
Sent: Monday, December 11, 2017 8:16 AM
To: Jan Leshner
Cc: Tobin Rosen; Regina Nassen
Subject RE: Old Tucson Studios

Jan – Have not heard from anyone

Neil J. Konigsberg, Manager
Pima County Real Property Services
Neil.konigsberg@pima.gov
520-724-6582

From: Jan Leshner
Sent: Monday, December 11, 2017 8:18 AM
To: Neil Konigsberg
Cc: Tobin Rosen; Regina Nassen
Subject: RE: Old Tucson Studios

Thanks, Neil. I emailed Michael Racy and asked that he contact OTS if they want to keep this moving.

From: Jan Leshner
Sent: Monday, December 11, 2017 8:28 AM
To: Neil Konigsberg; Tobin Rosen; Regina Nassen; Diane Frisch
Subject: FW: OTS

From: Michael M Racy
Sent: Monday, December 11, 2017 8:27 AM
To: Jan Leshner
Subject: FW: OTS

Good morning,

No need to try to get the amendment on the agenda for the upcoming meeting.
Helaine is coming into town tomorrow and wants to be brought up to date
on all issues before moving forward.
I will call to discuss in more detail.

Thank you,
Michael M. Racy
Racy Associates, Inc.
535 W. Burton Dr.
Tucson, AZ 85704
520-906-4646