



MICHAEL N. FEUER
CITY ATTORNEY

REPORT NO. R20-0350
December 22, 2020

REPORT RE:

RETENTION OF OUTSIDE COUNSEL

722-728 S. BROADWAY, L.P. v. CITY OF LOS ANGELES
(REAL PARTIES IN INTEREST LOS ANGELES COUNTY DEVELOPMENT
AUTHORITY AND BRIDGES HOUSING)
LASC NO. 20STCP03499

The Honorable City Council
of the City of Los Angeles
Room 395, City Hall
200 North Spring Street
Los Angeles, California 90012

Honorable Members:

This is a request to retain outside counsel in the above-noted case. Bergman Dacey Goldsmith, P.C. (Bergman Firm) would represent the City as the respondent/defendant in the above-noted lawsuit, and the Bergman Firm would concurrently represent the Los Angeles County Development Authority (County) as the real party in interest in the same lawsuit. The Bergman Firm's legal fees would be paid by the County under an existing, separate agreement to indemnify and defend the City.

As set forth in more detail below, we recommend selecting the Bergman Firm and authorizing its concurrent representation of the County in the case. We see no existing conflicts that would prevent the Bergman firm from representing the City. Brian Bergman of Bergman Dacey Goldsmith, P.C., is an experienced trial attorney

representing public entities. He will serve as the lead attorney on the matter, and he brings particular experience relevant to this matter since he is also representing the County in an eminent domain lawsuit involving the same County development project.

Need for Counsel and Scope of Work

This lawsuit stems from the City Council's September 8, 2020, approval of the County's request to vacate a public street and related airspace for the County's Vermont-Manchester project located in Council District 9 (C.F. No. 18-1005-S1). A lawsuit was filed alleging that the City violated the California Environmental Quality Act (CEQA) because the street vacation allegedly fails to qualify for a statutory exemption from CEQA, and that the City violated the Streets and Highways Code because the City allegedly failed to analyze other possible public uses of the street.

The County, as the real party in interest, sought the City's approval of the project and, in connection with the approvals, agreed to defend and indemnify the City in any lawsuits challenging those approvals. There is also a private developer entity, Bridge Housing, as the County's applicant, which is represented by attorneys from the San Diego office of the Sheppard Mullin law firm.

Currently, no hearings have been set in the case, and the City is in the process of compiling the administrative record.

Selection of Outside Counsel

The County, as a real party in interest in the case, has chosen to retain the Bergman Firm as its own outside counsel to defend the County's interests in the lawsuit. The Bergman Firm's concurrent representation of the City and County would provide greater efficiencies to the County, while allowing the County to comply with its obligation to defend the City.

The Bergman Firm is a small local law firm that represents public agencies, including the City of Los Angeles. The firm's principal has advised that the firm handles employment law matters for the City and is on the Los Angeles Department of Water and Power's pre-selected outside counsel list for eminent domain litigation. As such, the firm is known to our Office.

As mentioned above, the Bergman Firm currently represents the County in another lawsuit pertaining to the subject project. As such, the firm's in-depth knowledge of the project should prove useful in defending the City in this new case.

Recommendation

1. Authorize the City Attorney to enter into a contract with Bergman Dacey Goldsmith, P.C., funded by the County of Los Angeles, for the purpose of

representing (as co-counsel with our Office) the City concurrently with the firm's representation of the Los Angeles County Development Authority in 722-728 S. *Broadway, L.P. v. City of Los Angeles* (Los Angeles Superior Court Case No. 20STCP03499).

If you have any questions regarding this matter, please contact Steven G. Martin at steve.martin@lacity.org. He or another member of this Office will be available when you consider this matter to answer questions you may have.

Sincerely,

MICHAEL N. FEUER, City Attorney

By *Anne Haley*
ANNE HALEY
Managing Assistant City Attorney

AH:sgm