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CITY ATTORNEY

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REPORT RE:

RETENTION OF OUTSIDE COUNSEL

JEFFREY FRIED, ET AL. V. CITY OF LOS ANGELES
LASC CASE NO. BC 713530

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 to provide the City with a defense in the above case. Outside counsel's legal fees will be paid by Travelers Indemnity Insurance Co. (Travelers) pursuant to a contract between the City and the City's contractor, Williams Pipeline Contractors, Inc. (Williams). The City's right to a defense arises from its contract with Williams, which is the City's main contractor for emergency sewer repairs and other maintenance on its sewer pipes in various areas of the City.

As set forth in more detail below, we recommend the selection of The Aguilera Law Group to assist the Office in this case. Eric Aguilera, an experienced trial practitioner, will be the lead Aguilera Law Group attorney on the matter. Eric Aguilera will bring the firm's experience and expertise in defending public entities to this case.

Need for Counsel and Scope of Work

Plaintiffs Jeffrey Fried and Tamar Dames (Plaintiffs) sued the City of Los Angeles alleging nuisance, negligence, trespass, and inverse condemnation causes of action. Plaintiffs' claims relate to the alleged poor soil compaction in connection with a sewer pipe replacement project along Valley Vista Boulevard in 2015 on properties adjacent to Plaintiffs'. After heavy winter rains in 2017 Plaintiffs allege that the soil in the trenches in which the pipes were placed became loose resulting in earth movement that partially collapsed a wall along their property line, damaging their garage and pool house.

The City is insured under the Travelers insurance policy obtained by Williams pursuant to the latter's contract with the City for sewer repair work. Under the general provisions of said contract, the City is entitled to be defended and indemnified for claims and lawsuits related to Williams' work.

The action has not yet been set for trial. A Trial Setting Conference is set for April 8, 2021. Because of the impact of the Covid-19 pandemic, trial will likely be set later in 2021 or early 2022.

The Aguilera Law Group's fees will be paid by Travelers. As such, the retention of The Aguilera Law Group is not expected to impact the City's General Fund, except in the unlikely event that Travelers withdraws its coverage under its reservation of rights.

This Office is also litigating a cross-complaint for indemnity against Williams. The City's cross-complaint will not be litigated by The Aguilera Law Group as Travelers is only required to provide a defense to Plaintiffs' lawsuit.

Selection Process

Travelers will pay outside counsel's fees pursuant to the insurance contract. Travelers has a panel of available law firms and selected The Aguilera Law Group. Based on conversations with the lead partner Eric Aguilera, our Office is satisfied with his and his firm's level of experience, reputation, and skill in the type of lawsuit at issue.

Recommendation

1. Authorize the City Attorney to retain The Aguilera Law Group for the purpose of assisting the City in the defense of *Jeffrey Fried and Tamar Dames v. City of Los Angeles*, Los Angeles County Superior Court Case No. BC713530.

If you have any questions regarding this matter, please contact John A. Minor at (213) 978-8255. He or another member of this Office will be available when you consider this matter to answer any questions you may have.

Sincerely,

MICHAEL N. FEUER, City Attorney

By *Anne Haley*
ANNE HALEY
Assistant City Attorney

DM:JAM:mh